



## Chapter 25 - Payroll

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## 25 Payroll

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## 25.10

### About the Payroll Policies

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#### 25.10.10

May 1, 1999

#### Purpose of these policies

These payroll accounting policies and procedures serve as a basis for preparing, processing, and recording payrolls.

#### 25.10.20

October 1, 2005

#### Authority for these policies

OFM is responsible for establishing the necessary systems, policies, and procedures for payroll preparation and accounting (Chapter 42.16 RCW). Additionally, the provisions of Title 357 WAC administered by the Department of Personnel (DOP) and collective bargaining agreements (CBAs) supplement these instructions.

#### 25.10.30

January 1, 2004

#### Applicability

This part applies to all agencies of the state of Washington unless otherwise exempted by statute and to all their payroll processing and payment systems used to pay employees' salaries, wages, and benefits. A variety of payroll systems are used by state agencies:

- 25.10.30.a Most agencies use a centralized payroll system maintained by the Human Resources Information Systems Division (HRISD), DOP.
- 25.10.30.b The community and technical colleges, The Evergreen State College, and Eastern Washington University use the Payroll Personnel Management system maintained by the Center for Information Services (CIS).
- 25.10.30.c Each of the remaining universities uses its own payroll system.

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**25.10.40**

June 1, 2006

**Employee definitions**

## 25.10.40.a

**State Employee**

Generally, an individual is an employee when the employer has the legal right to direct when, where, and how the work is done. Section 75.70 of this manual provides a more detailed definition of Salaries and Wages (Object A). There is also information on personal service contracts in Chapter 15 and Section 75.70 (Object C) covering those individuals paid by the state who are not employees.

Several definitions of "state employee" exist in statute for different purposes. However, OFM has historically used the following general definition:

**A State Employee means any individual who is appointed by an agency head or designee and serves under the supervision and authority of any agency carrying out the ongoing business of the agency, unless designated otherwise in statute.**

For employment tax purposes, each federal and state agency that regulates employment has its own definition of "employee" based on what taxes that agency levies or collects. For example, the IRS collects federal income, OASI, and Medicare taxes. Labor and Industries (L&I), on the other hand, collects moneys for the worker's compensation program. An individual can be an employee by one agency's definition, but not by another's definition.

The following federal and state agencies publish regulations or WACs that define an "employee" from their perspective:

- The Internal Revenue Service (Revenue Ruling 87-41 and Publication 15 (Circular E)).
- The Washington State Department of Labor and Industries (Chapter 296 WAC).
- The Washington State Department of Employment Security (Chapter 192 WAC and the federal/state 218 agreement).
- The Washington State Department of Revenue (Chapter 458 WAC).

If you have questions about whether a specific tax applies, contact the appropriate agency and/or your agency's assistant attorney general. Also refer to applicable state statutes.

25.10.40.b

**“Full Time Equivalent”(FTE)**

The term “Full Time Equivalent” (FTE) is a budgeting term used to measure one full calendar year of paid employment, or the equivalent of 2,088 hours (the number of average available work hours in a year). A staff month is equivalent to 174 hours (the average available work hours in a month).

The hours used in FTE calculations are for hours worked by state employees. While the employing agency must always pay appropriate federal and state employment taxes, state statutes may exempt certain groups from the “state employee” definition for FTE computation purposes. The following displays the various types of payroll transactions and the related requirements for FTE reporting:

Payroll Transaction	Sub-object Coding	Required FTE Recognition	Additional Comments
Regular time worked	Object A series – AA – AR as appropriate	Yes	
Regular time worked pay cancellations	Object A series – AA-AR as appropriate	Yes, reduce FTEs by # of canceled pay hours	Record if same fiscal period still open where original pay was issued
Vacation leave buyout at termination	AT	Yes	Calculation on # of vacation leave hours bought out
Boards and Commissions compensation	AE	Yes	Each “day” of pay is considered = to 8 hours
Call-back (WAC 357-28-185 or CBAs)	AU	Yes	2 hours per incident per WAC 357-28-185 or as allowed by CBAs
Compensatory time payouts	AU	Yes	# of OT hours (actual time worked)
Overtime	AU	Yes	# of OT hours (actual time worked)
Sick leave buyouts	AS	Yes	# of hours bought out
Worker’s compensation sick leave recoveries	Code where original sick leave recorded	Yes, reduce FTEs by # of hours restored	Record if same fiscal period still open where sick leave was taken for WC absence
Standby payments	HRMS Users: Code to Sub-object AA, Sub-subobject SW03  Non-HRMS Users: Code in Object A series where time worked	No	HRMS = Human Resources Management System  AA SW03 = State Classified - Standby
State internship program* (Includes undergraduate and executive fellowship programs)	Code in Object A series where time worked	Yes, but not counted as budgeted FTEs	Use Program 690
State/federal work study program*	AL	Yes, but not counted as budgeted FTEs	Use Program 690
Special employment compensation situations	NW OFM approval required to use	No	Refer to Subsection 75.70.20 (NW) for approved programs

**\*Note:** Program 690 is established for the purpose of recording FTEs related to the state internship and state/federal work study programs. Expenditures related to these programs (wages, employee benefits, and FTEs) are to be charged to Program 690, "Non Budgeted FTEs," in the proper objects of expenditure. State/federal work study payments from the HECB are to be coded as interagency reimbursements to sub-object SA, by the receiving agency in Program 690. Payments for the state internship program as well as the agency's share of salaries and benefits related to the state/federal work study program are to be transferred from Program 690 to the agency's appropriate budgeted program(s) using intra-agency reimbursement sub-object TA. **Total expenditures for Program 690 should be zero.** FTEs are to remain in Program 690 as originally expended and are not counted towards an agency's budgeted FTEs in the state's financial system.



## 25.20

# Payroll Accounting Requirements

### 25.20.10

June 1, 2006

## Payroll revolving account and other accounts used for payroll activities

Agencies use various types of accounts to record payroll activities.

### 25.20.10.a

### Treasury Payroll Revolving Account

The treasury payroll revolving account is the State Payroll Revolving Account (035). Agencies make all payroll related payments from this account by a single warrant, electronic funds transfer, or journal voucher whenever possible.

Account 035 is used for payroll disbursements by agencies using Department of Personnel's Human Resource Management System (HRMS). Use of this account is optional for other agencies.

The following procedures are used for transfers and deposits of money to Account 035:

- Agencies authenticate payroll data in the HRMS system and *certify payroll registers* for dollar amounts.
- HRISD provides journal vouchers and warrant registers indicating the accounts properly chargeable with the payroll expenditures/expenses. HRISD then certifies these amounts to the Office of the State Treasurer (OST).
- OST transfers money from agency treasury or treasury trust accounts to Account 035 for payroll disbursements chargeable to those accounts or agencies deposit sufficient money with OST in Account 035 to provide for payroll disbursements chargeable to local accounts.
- All transfers or deposits are due at least *one day before* the scheduled payroll disbursements.
- If agencies fail to transfer or deposit money on time, they will be required to deposit money in advance of payroll preparation.

- OST redeposits amounts for canceled warrants back to Account 035 where the original disbursements were made. Agencies then complete the disposition of these amounts. The returned amounts are either reissued from Account 035 or transferred back to the accounts originally charged with the payroll expenditures/expenses. Refer to Subsection 85.38.50 for procedures regarding warrants canceled by OST after being outstanding 180 days.

25.20.10.b      **Other Accounts**

Use of the following accounts is optional.

25.20.10.b.(1)      **College Clearing Account 790**

Users of the Payroll Personnel Management System maintained by CIS use Account 790 for payroll disbursements.

25.20.10.b.(2)      **Other Agencies with Unique Payroll Systems**

Agencies with their own payroll systems may utilize other accounts as either allowed by law or with OFM approval.

25.20.10.c      **Reconciliations**

Agencies' records are to accurately show all payroll transactions (and cash or fund balances), regardless of the account(s) used. Refer to Subsection 85.34.10 for accounting entries and reconciliation requirements.



**25.20.20**  
June 1, 2006

## Required payroll records and reports

The following list shows the records required for payroll accounting. (Equivalent records by another name are acceptable alternatives.) Refer to state and internal agency policies for applicable record retention requirements.

The general record retention schedule for state agencies can be found at:  
<http://www.secstate.wa.gov/archives/gs.aspx#state>.

IRS also has records and retention requirements. Refer to Publications 15 (Circular E, Employer's Tax Guide) and 15A (Employer's Supplemental Tax Guide) for the appropriate tax year on record keeping requirements.

NAME OR TYPE OF RECORD	PURPOSE OF RECORD	CONTENTS OF RECORD
<b>PAYROLL REGISTER</b>  (HRMS: Payroll Journal)	A record produced each pay period showing all employees paid.	<ul style="list-style-type: none"> <li>• Warrant or ACH (automated clearing house) number</li> <li>• Employee Names</li> <li>• Detail of Earnings</li> <li>• Deductions/Allowances/Reimbursements</li> <li>• Net Pay</li> </ul>
<b>WARRANT REGISTER</b>  (HRMS: Warrant/ACH Register Summary )	A listing of employees and other payroll costs paid by warrant.	<ul style="list-style-type: none"> <li>• Warrant number</li> <li>• Employee names</li> <li>• Vendor names</li> <li>• Net pay or vendor amount</li> <li>• Account Charged</li> </ul>
<b>DIRECT DEPOSIT RECORD (ACH REGISTER)</b>  (HRMS: Warrant/ACH Register & Summary)	A listing of employees and other payroll costs paid by direct deposit.	<ul style="list-style-type: none"> <li>• ACH number/banking institution</li> <li>• Employee names</li> <li>• Vendor names</li> <li>• Net pay or vendor amount</li> <li>• Account Charged</li> </ul>
<b>REGISTERS INDICATING EMPLOYEE DEDUCTIONS AND EMPLOYER'S SHARE OF TAXES, INSURANCE, AND RETIREMENT</b>  (HRMS: Accrued and Mandatory Payroll Deduction Report )	Detailed records produced for each pay period for each employee deduction and state share cost.	<ul style="list-style-type: none"> <li>• Federal Income tax (FIT)</li> <li>• OASI, Medicare, and Industrial Insurance</li> <li>• Retirement</li> <li>• Garnishments and other legally required deductions</li> <li>• Other Deductions</li> <li>• Employer portion of taxes, insurance, and retirement</li> </ul>

NAME OR TYPE OF RECORD	PURPOSE OF RECORD	CONTENTS OF RECORD
<b>CALENDAR YEAR-TO-DATE WAGE AND EMPLOYMENT TAX RECORDS TO SUPPORT FEDERAL REPORTING</b>  <b>(HRMS: Employee Year to Date (YTD) Payroll Register)</b>	Detailed record produced for each calendar year which includes:  Current month, quarterly, and cumulative year-to-date data for filing quarterly Form 941/941cs and annual Forms W-2/W-2c.	<ul style="list-style-type: none"> <li>Gross pay and reductions to gross pay</li> <li>Gross pay subject to Federal Income Tax (FIT), OASI, and Medicare</li> <li>Employee FIT, OASI, and Medicare taxes withheld</li> <li>Employer OASI and Medicare taxes</li> <li>Taxable Fringe Benefits</li> </ul>
<b>RETIREMENT WORKLISTS AND OTHER TRANSMITTAL ADVICES</b>  <b>(HRMS: Use DRS's WBET System)</b>	Listings and advices to report detailed information on eligible employees to retirement systems.	<ul style="list-style-type: none"> <li>Employees eligible for each retirement plan</li> <li>Employee retirement deductions</li> <li>Employer contributions</li> <li>Other service credit detail</li> </ul>
<b>DISTRIBUTION OF PAYROLL AND RELATED COSTS</b>  <b>(HRMS: Distribution of Payroll and Related Costs)</b>	A listing of each employee by funding source(s).	<ul style="list-style-type: none"> <li>Payroll and related costs distributed to one or more funding sources</li> </ul>
<b>DEDUCTION AUTHORIZATIONS</b>	<i>Employee authorized</i> documents authorizing deductions or reductions from gross pay.	<ul style="list-style-type: none"> <li>W-4 showing the number of an employee's deductions for FIT</li> <li>All other voluntary deductions requiring the employee's signature</li> </ul>
<b>LEAVE RECORDS</b>  <b>(HRMS: Attendance System Change Report)</b>	A record of employee leave earned, taken, and balances.	<ul style="list-style-type: none"> <li>By employee</li> <li>By leave type</li> <li>Cumulative leave balance data</li> </ul>

**25.20.30**

June 1, 2006

**Agency required payroll certifications**

## 25.20.30.a

**Certification Requirements**

RCW 41.06.270 specifies two conditions an agency must meet before paying an employee. The agency head (or authorized designee) must certify that the payroll meets these conditions using the following language:

<p>"I hereby certify that to the best of my knowledge amounts listed in this payroll are true and correct charges and that employees holding a position covered by Chapter 41.06 RCW or other applicable employment contract, have been employed in accordance with the rules, regulations, and orders issued thereunder."</p>		
<p>BY _____</p>		
(NAME)	(TITLE)	(DATE)

As an alternative, in instances where an agency is using the Human Resource Management System (HRMS) and the payroll includes a mid-period transfer and charges belonging to another agency, the following language may be used:

"I hereby certify that to the best of my knowledge amounts listed in this payroll, associated with my agency, are true and correct charges and that employees holding a position covered by Chapter 41.06 RCW or other applicable employment contract, have been employed in accordance with the rules, regulations, and orders issued thereunder."

BY \_\_\_\_\_  
(NAME) (TITLE) (DATE)

25.20.30.b **Agency Required Records to Support Payroll Certification**

25.20.30.b.(1) Agency records include the certification signed by the agency head (or authorized designee):

- Directly on the payroll register, or
- On a separate document if the payroll register is on microfiche.

25.20.30.b.(2) A copy of all documents that reflect personnel actions for:

- Appointment, transfer, promotion, demotion, and salary changes.
- Any other temporary or permanent changes in employee status.

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**25.20.40**  
January 1, 2004

**Payment and reconciliation of deductions and employer's costs**

25.20.40.a Agencies are to design payroll procedures to produce accurate payment of payroll deductions and employer costs to vendors on a timely basis.

25.20.40.b Pay other state agencies by journal voucher whenever possible.

25.20.40.c Timely monthly reconciliations are recommended for:

- **Savings Bond Reserves** to ensure amounts remaining in the reserve for designated employees are correct.
- **Year-To-Date (YTD) data** to ensure information used for preparing federal employment tax payments and reports are correct. Avoid incurring IRS interest and penalty assessments by reconciling YTD wage and tax data to federal deposits, quarterly Form 941/941cs, and annual Form W-2/W-2c statements. Refer to IRS Publication 15 for information regarding resolution of discrepancies and suggestions to reduce errors.

- **Health Insurance data** to ensure that the premiums collected from employees and amounts calculated as employer contributions are proper.

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**25.20.50**

October 1, 2005

**Employee transfers between agencies**

When an employee accepts an appointment with a different employer, WAC 357-22-025 requires the most recent former employer to provide employee information to the new employer in a transmittal package developed by the Department of Personnel. The WAC pertains to non-represented employees only.

Both the terminating and new employing state agencies should make a concerted effort to ensure the employee doesn't suffer a lapse in wage when there is an immediate continuing employment transfer.

The terminating agency must transfer at a minimum, the following documents to the new agency's designated office promptly:

**25.20.50.a****Agency Termination Documentation**

The original document that terminates the employee from the transferring agency.

**25.20.50.b****Employee Deduction Authorizations**

- Employee written requests authorizing both reductions from gross pay and other deductions.
- All original (past and current) medical, dental, life, long term disability, and any other insurance enrollment forms.

**25.20.50.c****Leave Balances**

Employee leave records for vacation, personal holiday, sick, shared leave, and any other leave balances.

**25.20.50.d****Interagency Transmittals**

Use SF Form 314 – Employee Personnel/Payroll Records Transmittal (or equivalent) to transmit employee records between state agencies.



## 25.30 Wage Computations

### 25.30.10

May 1, 1999

#### Lagged payroll

RCW 42.16.010 establishes semi-monthly pay periods as a basis for paying all state officers and employees. The first pay period is from the first to the fifteenth of the month. The second pay period is from the sixteenth through the last calendar day of the month. Actual paydates are lagged but cannot be later than ten days following the close of each pay period, except when the paydate falls on a Sunday. In this case, the paydate is the following Monday. OFM establishes the paydates through WAC 82-50-021.

### 25.30.20

January 1, 2004

#### Paydates

25.30.20.a

##### Semi-monthly paydates

Agencies shall pay the salaries of all state officers and employees on the semi-monthly paydates identified in WAC 82-50-021.

Refer to Administrative and Accounting Resources at <http://www.ofm.wa.gov/resources/default.asp> for information on specific paydates and other key dates as well as information on the Department of Treasury "One Day" Deposit Rules for payrolls over \$100,000.

25.30.20.b

##### Exceptions

An agency may request in writing, and the Director (or official designee) of OFM may grant in writing, paydate exceptions in the following instances:

1. For short-term periodic, non-career state employees;
2. For student employees of colleges and universities;
3. For liquor control agency managers who receive a percentage of monthly liquor sales as part of their compensation; and
4. For a pay schedule of shorter duration than the official paydates established in WAC 82-50-021 provided that:

- The agency still maintains a lagged, semi-monthly payroll, and
- The official pay periods established by RCW 42.16.010(1) must be in effect.

25.30.20.c

**Termination of Exceptions**

The Director (or official designee) of OFM may terminate any payday exceptions. (Refer to RCW 42.16.010(2).)

1. The termination notice from the Director (or official designee) of OFM to the agency head must be in writing.
2. The agency head shall receive the notice by July 1.
3. The agency shall conform to WAC 82-50-021 on January 1 of the following year.

25.30.20.d

**RCW 42.16.010 permits agencies to pay overtime, penalty pay, and special pay on the next payday if:**

1. The employee fails to make an accurate and timely report of the information needed to determine the payment; or,
2. The employer lacks reasonable opportunity to verify the claim.

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**25.30.30**

June 1, 2006

**Pay period, workdays, and rate computations**

25.30.30.a

**Full-Time Employees**

When employees work a full semi-monthly pay period (RCW 42.16.010 and WAC 82-50-021), their pay rate shall be one-half of the actual monthly gross pay. **Time worked, for gross pay computations, includes paid leave and holidays.**

**Exceptions:** *Gross pay computations for full-time employees change when they work less than a full semi-monthly pay period, are on a leave-without-pay status, or their pay rate changes during the pay period.*

25.30.30.a.(1)

**Compute gross pay by:**

- Calculating the ratio of time worked in days or hours to the scheduled time available for work in days or hours for that pay period.

- Scheduled time available for work includes paid leave and holidays.
- In cases of promotion or demotion, two calculations are done--one for each salary level. Both calculations are based on the percentage of the days or hours worked to total days or hours available for the pay period at each salary level.
- In addition to basic salary, gross pay includes remuneration for all other compensable services and *available to employees on designated paydates* (RCW 42.16.010). Refer to Subsection 25.30.20.d for a paydate exception provided by that statute.

Other compensable services include overtime, assignment pay, call-back, standby, compensatory time, shift differential premium, performance pay, recognition payments, and other special pay provisions as provided for by law, personnel board rules, agency policy or rule, or contract.

25.30.30.a.(2)

**Use the following formula to compute pay for fractional semi-monthly pay periods:**

<i>Gross</i>	<i>Actual time(hours/days) worked in semi-monthly pay period</i>	<i>X</i>	<i>Monthly salary rate</i>
<i>Pay =</i>	<i>Scheduled Work Time(Hours/Days) Available</i>		<i>2</i>
	<i>In Semi-Monthly Pay Period</i>		

**Example:** If an employee with a monthly rate of \$2,400 works 24 hours in a pay period containing 88 scheduled working hours, the pay would be computed as follows:

$$\frac{24}{88} \times \frac{\$2,400}{2} = \underline{\underline{\$327.27}}$$

In the case of a promotion from \$2,400 to \$2,800 a month, effective on the third work day in the pay period, two calculations are required using the appropriate actual hours and pay rates:

**First Computation:**

$$\frac{16}{88} \times \frac{\$2,400}{2} = \underline{\$218.18} \text{ (Payment for first two days of pay period)}$$

**Second Computation:**

$$\frac{72}{88} \times \frac{\$2,800}{2} = \underline{\$1,145.45} \text{ (Payment for remaining days in pay period)}$$

**Total gross:**  $\$218.18 + \$1,145.45 = \underline{\$1,363.63}$  (Total payment for pay period)

25.30.30.a.(3) **Colleges and Universities**

With written OFM approval, colleges and universities may use the employee's annualized straight time hourly pay rate for calculating leave-without-pay salary reductions. The annualized hourly rate is determined by dividing the monthly rate by 174, the average number of working hours during a month. If an institution of higher education historically has used an average number of monthly working hours rate other than 174, written OFM approval is required to continue using the other rate.

25.30.30.a.(4) **State Elected Officials**

Use calendar days, including all holidays or workdays, when computing a partial pay period for elected state officials.

<i>Gross Pay</i>	=	$\frac{\text{Calendar Days To Pay in Semi-monthly Pay Period}}{\text{Calendar Days in Semi-Monthly Pay Period}} \times \frac{\text{Monthly Salary Rate}}{2}$
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25.30.30.b **Employees Paid on an Hourly Basis**

Compute employees' gross pay by multiplying the hours worked in the semi-monthly pay period times their hourly pay rate. The gross pay computation includes paid leave, if eligible.

<i>Gross Pay</i>	=	<i>Actual Hours Worked</i> X <i>Hourly Rate</i>
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**Example:** 25 hours worked X \$10.00 hourly rate = \$250.00

Holidays are paid proportionate to the amount of time in pay status during the month to that required for full-time employment, if eligible (WAC 357-31-015, 020, 025 or CBAs).

<p><i><b>Gross</b></i>                      <i><b><u>Total Month's Actual Hours Worked*</u></b></i>    X 8 X <i><b>Hourly Rate</b></i></p> <p><i><b>Holiday</b></i>    =    <i><b><u>Total Month's Work Hours Available*</u></b></i></p> <p><i><b>Pay</b></i></p>
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\*Includes eligible sick/annual leave but excludes holidays for calculation.

**Example:** An hourly employee worked 90 hours (excluding annual and sick leave) out of 175 hours (includes 1 holiday) for the month of May 1 - 30, 19xx. The hourly rate is \$10.00. During this period the employee took one day each of annual leave and sick leave.

90 actual hours worked + 8 hours annual leave taken + 8 hours sick leave taken = 106 hours. Total month's work hours available: 175 Hours - 8 hours (holiday) = 167 hours.

Regular pay	106 hours	x	\$10.00	=	\$1,060.00
Holiday pay	106/167 hours	x	8 x \$10.00	=	<u>\$ 50.78</u>
Total pay				=	<u>\$1,110.78</u>

**25.30.30.c                      Payments to Commissioners and Board Members**

Commissioners and board members are classified in five groups.

**25.30.30.c.(1)                      Members of a Class 1 Group**

These members are generally volunteers and do not receive any compensation. Contact the Department of Labor and Industries regarding the appropriateness of medical aid coverage for these volunteers. Refer to RCW 51.12.035.

**25.30.30.c.(2)                      Members of a Class 2, 3, 4, or 5 Group**

Consider members of a Class 2, 3, 4, or 5 groups as state employees and process their compensation through the payroll system. (Refer to RCW 43.03.220 through 43.03.265 for group definitions.) For purposes of FTE computation, *each day of pay is considered equal to eight hours.*

25.30.30.c.(3)      **Compensation**

Class 2, 3, 4, or 5 group members qualify for compensation for each calendar day they attend official group meetings and/or perform statutory duties approved by their chairperson. Maximum daily rates are defined in RCW 43.03.230 through 43.03.250. A calendar day of compensation includes all meetings or work performed on that day, regardless of how many hours worked or meetings attended. Compensation may only be paid to a member if it is authorized under the law dealing with the specific group to which a member belongs or dealing in particular with members of the specific group.

25.30.30.c.(4)      **Exception**

If a member is employed full-time by the federal government, any Washington State agency, or local governments and receives any compensation from such government for working that day, the member is ineligible for compensation as a board or commission member.

Administering agencies of the Boards or Commissions are to require a written statement from the public employers that no compensation for work was paid for the same days a board or commission paid the member.

25.30.30.c.(5)      **Expenditure Object Coding**

These payments are coded to Subobject AE--State Special.

25.30.30.c.(6)      **The following deductions apply to the compensation paid to Class 2, 3, 4, and 5 group members:**

- Federal Withholding Tax.
- OASI and Medicare--Deduct the employee's portion of OASI and Medicare contributions.
- Labor and Industries--Labor and Industry programs cover all compensated members of Class 2, 3, 4, and 5 groups.
- Contact Membership Services of the Department of Retirement Systems for information regarding the appropriateness of retirement contributions.

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**25.30.40**

October 1, 2005

**Taxable fringe benefits**

Any property or service that an employee receives from an employer in place of or along with regular wages is a fringe benefit that may be subject to federal employment taxes. If taxable, these benefits are included in gross income and subject to federal income, OASI, and Medicare taxes.

Refer to IRS regulations for the appropriate calendar year regarding specific taxation, valuation, and reporting information. IRS Publication 15-B “Employer’s Guide to Taxable Fringe Benefits” provides detailed information on several types of benefits and is available at <http://www.irs.gov/pub/irs-pdf/p15b.pdf>. Additionally, an IRS training handout on taxable fringe benefits is available on the IRS Federal, State & Local Governments website at <http://www.irs.gov/govt/fslg/content/0,,id=117706,00.html>.

Agencies are strongly encouraged to attend training classes that are made available to the state by the IRS and the Social Security Administration (SSA) to obtain an understanding of federal tax requirements.

Fringe benefits that are taxable under certain circumstances include, but are not limited to:

- Gift certificates
- Awards and prizes
- Personal use of agency provided vehicles, such as commuting between official residence and official workstation
- Clothing allowances
- Educational assistance
- Lodging
- Meals
- Moving expenses
- Unspent, unreturned travel advances

Contact Membership Services of the Department of Retirement Systems to determine which, if any, fringe benefits are included in earnable compensation for retirement purposes.

**25.30.50**

October 1, 2005

**Compensatory time - Cash-out payments**

## 25.30.50.a

**General**

Overtime-eligible state employees may be compensated at the rate of time-and-one-half in cash or in compensatory time off. The Fair Labor Standards Act, administered by the U.S. Department of Labor (USDOL), sets standards regarding overtime pay. Based on this Act, the Washington State Department of Personnel (DOP) provides personnel rules for non-represented employees on overtime in addition to specific rules regarding compensatory time in WAC 357-28-255 through 285 . For represented employees, refer to the applicable CBA. Agencies are advised to review these personnel rules for more complete information.

Cash compensation for overtime is subject to federal employment taxes (income, Medicare, and OASI) and state retirement.

## 25.30.50.b

**Recording compensatory time payable**

Agencies are to record a liability for accumulated compensatory time not cashed out by the end of the fiscal year. Refer to Subsection 85.72.65 for instructions on how to estimate and record the compensatory time payable in both governmental and proprietary/trust type accounts.

**25.30.60**

June 1, 2006

**Other compensation**

## 25.30.60.a

**Performance Pay**

Under WAC 357-28-295, agencies that have received **performance management confirmation** for decentralized compensation administration may authorize additional pay to individuals or groups of employees on a lump sum basis to recognize outstanding accomplishments or the achievement of pre-defined work goals by individual employees or units. Any additional pay granted under this section is a **premium** that is not part of base salary.

This provision is for non-represented employees only.

Performance pay is to be recorded using the sub object used for the associated work effort and is subject to federal employment taxes and retirement.

25.30.60.b

### **Relocation Payments**

An agency head may authorize a lump sum relocation payment, within existing resources, whenever:

1. It is reasonably necessary that a person make a domiciliary move in accepting a transfer or appointment; or
2. It is necessary to successfully recruit or retain a qualified candidate or employee who will have to make a domiciliary move in order to accept the position.

If the employee receiving the relocation payment terminates or causes termination with the state within one year of the date of the appointment or transfer, that employee may be required to pay back the lump sum payment. If the termination is a result of layoff, disability separation, or other good cause as determined by the agency head, the employee will not have to pay back the relocation payment.

Refer to WAC 357-28-310 through 320 or individual CBAs.

Relocation payments are subject to federal employment taxes and should be coded to sub-object BZ "Other Employee Benefits."

25.30.60.c

### **Recruitment and Retention Premiums**

An employer may adjust an employee's base salary within the salary range to address issues that are related to recruitment, retention or other business related reasons.

Under certain conditions, an employer may authorize additional pay to support the recruitment or retention of the incumbent or candidate for a specific position.

Refer to WAC 357-28-090 and 095.

Recruitment and retention premiums are coded to the sub-object used for the employee's normal salaries and wages.



## 25.40 Leave

### 25.40.10

October 1, 2005

### Shared leave

#### 25.40.10.a

#### General guidelines

This program allows a state employee to donate annual, sick or personal holiday leave to another state employee to use for sick leave purposes or to another state employee called to service in the uniformed services. When taken, this leave is classified as Shared Leave and tracked separately over the state career of the recipient employee (donee). RCW 41.04.660 describes the program as follows:

“The Washington state leave sharing program is hereby created. The purpose of the program is to permit state employees, at no significantly increased cost to the state of providing annual leave, sick leave, or personal holidays, to come to the aid of a fellow state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition, or who has been called to service in the uniformed services, which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment.”

Department of Personnel WAC 357-31-380 through 455, or the CBAs, establish the definition and eligibility requirements for the state leave sharing program.

Within these rules, the head of each agency determines the agency’s level of participation in the program. Agencies are strongly encouraged to establish policies that encompass these rules and that set internal procedures for managing the program.

#### 25.40.10.b

#### Definitions

**Employee** - Any employee entitled to accrue sick, annual, or personal holiday leave and for whom an agency has maintained leave records.

**Donor** - The employee making the donation of leave.

**Donee** - The employee receiving the donation of leave (recipient).

**Donated leave** - The dollar value of the leave hours a donor donates through the Shared Leave Program.

**Shared leave** - The donated leave converted to hours by the receiving agency at the donee's rate of pay. *This may be more or less than the literal hours donated, depending on the relative salary rates of the respective employees.*

25.40.10.c **Shared leave program requirements and restrictions**

25.40.10.c.(1) **Salaries and wages**

Employees on shared leave continue to receive the same salary, wage, and employee benefits that they normally receive when using **accrued** leave. (Refer to RCW 41.04.665(7).)

25.40.10.c.(2) **Shared leave requester**

- An agency shall require the employee requesting shared leave to submit a medical statement supporting the request. A licensed physician (or health care practitioner) should:
  - a) Verify the severity or extraordinary nature of the condition.
  - b) Verify the expected duration of the condition.
- An agency shall require an employee called to service in the uniformed services who is requesting shared leave to submit a copy of the military orders verifying the employee's required absence.

Refer to WAC 357-31-390 and 410, or CBAs.

25.40.10.c.(3) **Types and limitations on leave donations**

- **Vacation leave**

Employees may donate vacation leave if this does not cause their vacation leave balance to fall below eighty hours. For part-time employees, requirements for vacation leave balances are prorated.

Additionally, an employee may not donate excess vacation leave (hours in excess of 240) that the employee would not be able to take due to an approaching anniversary date. Prior to the donation, the donor's supervisor (or equivalent) determines how much of the excess leave the employee could use prior to the employee's anniversary date.

*Only the usable portion is donable.*

Because only *approved usable* excess leave can be donated, employees do not need a second approval to receive any remaining excess donated leave back should a reversion occur.

- **Sick leave**

Employees may donate any amount of sick leave provided the donation does not cause their sick leave balances to fall below 176 hours after the transfer.

**Note:** RCW 41.04.665 allows employees of higher education institutions who do not accrue annual leave but do accrue sick leave to donate sick leave. The donation cannot cause the employee's sick leave balance to fall below twenty-two days.

- **Personal holiday**

An employee may donate all or part of a personal holiday. Any portion of the personal holiday that is not used shall be returned to the donating employee, and may be used by the donor if the returned donation occurs and is then used in the same calendar year that it was donated.

#### 25.40.10.c.(4) **Limitations on receipt of shared leave**

- **Maximum shared leave per person**

An employee may not receive more than 261 days of shared leave for the entire duration of state employment. For this purpose, eight hours shall constitute a day (RCW 49.28.010) unless otherwise required by statute, regulations, or employment contract.

- **When shared leave can be used**

WAC 357-31-435 or the CBAs requires employees to use all compensatory time, personal holiday, sick leave, and vacation leave that they have accrued before using shared leave for medical purposes.

For work related illness or injury, the employee must diligently pursue and be found to be ineligible for benefits under Chapter 51.32 RCW to qualify for shared leave for medical purposes.

Employees called to service in the uniformed services must use all accrued vacation leave and paid military leave prior to using shared leave.

**Note:** Once an employee uses authorized shared leave, the employee shall not be required to repay to the agency the value of the leave used.



25.40.10.c.(5) **Transfer of shared leave**

Shared leave can transfer within a state agency and account: or, it can transfer between accounts or agencies. Transfer of leave requires approval from the agency head or designee of both the donor and donee agencies. It is recommended that an agency's shared leave policies include approval procedures and identify authorized designees.

25.40.10.d **Computation of leave transferred**

In transferring leave from the donor to the donee, it is the donor's dollar value of the leave that transfers and purchases shared leave for the donee at the donee's salary rate.

Calculate the **dollar value** of donated leave using the donor's total current salary rate times the hours donated.

For the donee, divide the **dollar value** received by the donee's total current salary rate to determine the leave hours to record.

**Definition of Formula Elements for Calculating Shared Leave:**

<b>Base Salary Rate (BSR) = Current hourly rate</b>	<b>OR</b>	<b>Monthly Rate</b>
<b>*Fringe Benefits (FBR) = 39% x BSR</b>		<b>174 (or monthly hours)</b>
<b>Total Salary Rate (TSR) = BSR + FBR</b>		
<b>*Formula for deriving the fringe benefit rate is in Subsection 25.40.10.j.</b>		

**Donor Formula for Shared Leave Transfer Calculation:**

**Dollar Value of Donated Leave = Donated Leave Hours x Donor's TSR**

**Reduce the donor's leave balance by the number of hours donated.**

**Donee Formula for Shared Leave Received:**

**Shared Leave Hours Credited to Donee =  $\frac{\text{Dollar Value of Donated Leave Received}}{\text{Donee's TRS}}$**

**Record the donee's shared leave balance for the calculated shared leave hours received.**

25.40.10.e **Recording donated leave transfer(s) in accounting and payroll systems:**

- Transfer the dollar value of donated leave using a Journal Voucher (A7) for transfers between treasury and/or treasury trust accounts.
- Use a warrant or a check for transfers between treasury and local accounts.
- Attach documentation to the JV or warrant or check, showing the name(s) of the employee(s) receiving the shared leave.
- Record the transfer in the appropriate accounting and payroll systems. *It is recommended agencies record the shared leave transactions, at a minimum, on a quarterly basis.* Refer to Subsection 85.34.20 for related accounting entries.

25.40.10.f **Shared leave records**

Code donated leave as shared leave and maintain it separately from all other leave balances. The agency head or designee must maintain the following shared leave information at a minimum:

- Number of leave requests received.
- Number of leave requests granted.
- Nature of requests.
- Medical statement (certificate) or military orders, as applicable.
- Name and agency of donors.
- Amount of leave transferred in or out.
- Value of leave transferred in or out.
- Date leave was taken **for each occurrence.**

25.40.10.g **Unused shared leave**

25.40.10.g.(1) Return any unused shared leave to the donor(s). Consider the shared leave ended when any one of the following events occurs:

- When the donee has not used the shared leave for a 30 calendar day period.

- When the donee voluntarily stops using the shared leave and instructs reversion of the remaining shared leave balance.
- When the donee is unable to use the remaining shared leave (i.e., the employee terminates employment).

The agency head or designee must approve in writing any exceptions to this reversion.

25.40.10.g.(2) Upon reversion, the ***donee agency*** completes the following steps:

- Determine the donee's shared leave hours remaining.
- Calculate the dollar value using the *donee's original TSR* and return the dollars to the appropriate donor agency or account (if applicable).

Any reversion *must* use the same TSR basis that was used to provide the shared leave hours to the donee. Otherwise, the dollar value per reverted hour returned to the donor agency or account will be more or less than received, depending on how a donee's current TSR may have changed.

Refer to Subsection 85.34.20 for accounting entries, including the entries to return shared leave valve within an account.

- Reduce the donee's shared leave balance to zero. Also, restore the donor's applicable reverted leave hours if in the same agency.

**Formula for calculating the return of shared leave to the donor:**

**Dollar Value of Reverting Shared Leave to Donor Agency and/or account** = **Shared Leave Hours Remaining x Donee's Original TSR**

**Reduce the donee's available shared leave balance to zero and prepare transfer of the remaining dollar value of the leave back to the donor agency and/or account.**

25.40.10.g.(3) Upon reversion, the ***donor agency*** completes the following steps:

- Receive the returned cash from another agency and/or account. If the donor was within the same agency and same account, then receive the dollar value only. (Refer to Subsection 85.34.20.)

- Calculate the number of hours to restore to the donor using the *donor's current TSR*. The donor's current salary rate is used because that reflects the current cost of re-establishing leave hours.
- Restore the calculated leave hours to the donor.

**Formula for converting the dollar value of returned leave to one donor:**

$$\text{Converting Dollar Value of Reverting Shared Leave to Donor Hours} = \frac{\text{Dollar value of reverting shared leave}}{\text{Donor's Current TSR}}$$

**Record the calculated hours returned to the donor's leave balance.**

25.40.10.g.(4) Calculating reverting shared leave hours from **multiple donors**

Where more than one employee donated leave to an individual, calculate reverting leave on a prorated basis using either the shared leave hours provided or dollars received by the donee. The following example uses dollars received.

This is a three-step process.

**Step 1: Calculate this percentage for each donor:**

$$\text{Percentage of residual shared leave returned to donor} = \frac{\text{Shared leave dollars received from Employee 1}}{\text{Total dollar value of shared leave received}}$$

**Step 2: Calculate the dollar value of shared leave reverting back to the donor:**

$$\text{Dollar Value of Shared Leave Reverting Back to Donors} = \text{\% calculated in Step 1} \times \text{Shared Leave Hours Remaining} \times \text{Donee's Original TSR}$$

**Step 3: Calculate leave hours returned to the donor:**

$$\text{Residual Shared leave returned to donor converted to donor hours} = \frac{\text{Dollar value of reverting shared leave from Step 2}}{\text{Donor's Current TSR}}$$

**Note:** A special reversion situation occurs when a donee depletes the initial shared leave hours received, and then receives additional donations. In this case, should there be a reversion of the additional leave received; do not include in the reversion proration *the donors(s) and the hours of the initial donation*. In effect, batches of donated shared leave are used on a first-in, first-out basis and reversion is limited to the remaining batch. Each batch (pool) is considered closed at the time its available shared leave balance reaches zero.

To comply with the cost containment provisions of RCW 41.04.670(3), accounting batches may be restricted to record only the amount of shared leave actually needed by donees on a payroll period by payroll period basis from a list of potential donors maintained on a first-in, first-out basis.

Agencies should communicate to potential donors the agency's shared leave policy in regard to how shared leave donations will be applied.

25.40.10.h **Donation and reversion calculation examples**

Refer to Administration and Accounting Resources at <http://www.ofm.wa.gov/resources/default.asp> for a sample donation and reversion case.

25.40.10.i **Direct questions on shared leave calculations to OFM**

Direct any questions arising due to the transfer of funds or the adjustment of appropriation authority with regard to the Shared Leave Program to the agency's assigned OFM financial consultant.

25.40.10.j **Formula for fringe benefit rate**

**Formula for Deriving the Fringe Benefit Rate:**

Benefits (Object B) as a percentage of Salaries and Wages	25.6%
Accrued holidays, sick leave, vacation leave	<u>13.5%**</u>
	<b>Total 39.1% (Rounded to 39%)</b>

**\*\*The additional 13.5% provides for holidays, sick leave, and vacation leave that an employee could potentially earn while on shared leave. The following formula is the method OFM has historically used to derive the percentage.**

Holidays	11 days a year
Sick Leave	12 days a year
Vacation Leave	<u>12 days a year</u>
Total	35 days a year
	X <u>8 hours per day</u>
Total	280 hours

**25.40.20**

October 1, 2005

**Vacation leave buyout at termination**

Compute termination leave payments by multiplying an average hourly rate times the number of vacation leave hours accumulated. Determine the average hourly rate by multiplying .0063\* times the monthly salary rate. The fraction of .0063 is based upon the number of work hours in an average month. Do not include premium pay such as standby, shift differential, and overtime in the monthly salary rate used as the basis for termination leave payment.

\*The formula for deriving the .0063 factor follows.

**Formula for Deriving the Vacation Leave Buyout Termination Factor:**

$$\begin{array}{rcl}
 & & \frac{1}{12 \text{ Months}} \\
 \frac{(8 \text{ hours})}{(1 \text{ Day})} & \times & \frac{(365 \text{ days} - 104 \text{ Saturdays and Sundays} - 11 \text{ Holidays} - 12 \text{ days of vacation leave})}{12 \text{ Months}} \\
 & = & \frac{1}{158.66} \\
 & = & .0063
 \end{array}$$

**25.40.30**

October 1, 2005

**Accrued sick leave buyout**

25.40.30.a

**Authority**

In order to provide eligible state employees an attendance incentive program, RCW 41.04.340 establishes rules when monetary compensation may be paid for accrued sick leave. Compensation is permitted for only that portion of sick leave accumulated at a rate of one day (8 hours) per month.

WAC 357-31-150 or the CBAs provide additional rules and guidance.

25.40.30.b **Eligibility Rules**

25.40.30.b.(1) **Continuing Employees**

- In January of the year following any year in which a minimum of sixty days (480 hours) of sick leave is accrued, and at no other time, an eligible employee may elect to receive compensation for the unused sick leave *accumulated only in the previous year*.
- Compensation is payable at 25% for any of the prior year's unused sick leave hours the employee elects to receive. However, no sick leave hours may be converted which would reduce the calendar year-end balance below 480 hours. Payment is based on the employee's current salary.
- Sick leave for which compensation has been received is deducted from accrued sick leave at the rate of 4 days for every 1 day paid.

25.40.30.b.(2) **Terminating Employees**

Eligible employees (or their estates) who separate from state service due to retirement or death may elect to receive compensation for unused sick leave at the rate of 25% of accumulated accrued sick leave. The compensation is based on the employee's salary at the time of separation.

25.40.30.c **Medical Expense Plans**

RCW 41.04.340 (7-9) authorizes retiring state employees to participate in medical expense plans, subject to conditions provided in statute, WAC 357-31-375, or the CBAs.

In lieu of remuneration for unused sick leave at retirement, agencies may, with equivalent funds, provide eligible employees with a benefit plan that provides for reimbursement for medical expenses.

25.40.30.d **Determination of the Current Hourly Rate**

The appropriate current hourly rate for sick leave buyout compensation depends on how an eligible employee is paid. Most situations are addressed in the following examples.

For an employee paid a monthly salary based upon an official Washington State Personnel System Salary Schedule, divide the monthly salary rate by 174 (average number of hours in a month).

- For an employee paid a salary based on a contract stating the number of contract days, divide the contracted salary by the number of contracted days to obtain a daily rate. Then divide the daily rate by the appropriate number of hours per day established for that contract to derive the hourly rate.
- For an employee paid a salary based on a *yearly* contract, divide the yearly salary by 12. The hourly rate is then calculated by dividing the computed monthly salary by 174 hours.
- If an employee is paid an hourly rate in accordance with an agreement negotiated between an employee organization and the state or based on an hourly rate from an official Washington State Personnel System Salary Schedule, that hourly rate is the official rate for computing sick leave compensation.

25.40.30.e

**Exemption from Retirement Credit**

Do not take retirement contributions on payments for sick leave buyouts. Compensation for unused sick leave is not used in computing retirement allowances.

25.40.30.f

**Buyout Upon Disability or Death**

Per IRS Publication 15-A, sick leave buyouts made to employees who retire due to disability, or to deceased employees' survivors, are exempt from OASI and Medicare taxes.

25.40.30.g

**Buyout Calculation****Calculation for a Continuing Employee:**

**Sick Leave hours unused in previous year in excess of 480 hours elected for buyout x 25% x Employee's current hourly salary rate\* = Buyout**

**Calculation for a Terminating Employee:**

**All unused Sick Leave hours remaining x 25% x Employee's current hourly salary rate\* = Buyout**

**\*Refer to Subsection 25.40.30.d for determination of the current hourly rate**



**Example:** An eligible employee has 650 hours of unused sick leave as of January 1, 19xx. The employee has 48 hours of unused prior year sick leave.

Calculation for a *Continuing* Employee: (25% x 48 hours) Pay 12 hours

Calculation for a *Terminating* Employee: (25% x 650 hours) Pay 162.5 hours

## 25.40.40

October 1, 2005

## Workers' compensation time loss payments

### 25.40.40.a

### Purpose

This subsection pertains to determining when a state agency needs to recover time loss compensation received by employees while absent from work and in approved disability status under the state workers' compensation law.

### 25.40.40.b

### Authority

#### 25.40.40.b.(1)

RCW 51.32.090 prohibits employees from receiving time loss payments and regular salary or wages during the period covered by the disability. Regular salary or wages include sick leave, but exclude other paid leave.

#### 25.40.40.b.(2)

WAC 357-31-235, 240, and 250, or the CBAs, contain the rules for determining time loss payment recoveries. The following procedures provide guidance in complying with these rules.

### 25.40.40.c

### Agency procedures for time loss recovery determinations

#### 25.40.40.c.(1)

### Department of Labor and Industries notification

The Department of Labor and Industries (L & I) notifies the agency of time loss payment amounts made to the agency's employees and the time periods covered.

#### 25.40.40.c.(2)

### Agency receipt of notice

When an agency receives notice of time loss payments, the agency determines the nature of paid leave used by the employee, if any, during the disability period covered by workers' compensation.

25.40.40.c.(3) **Employee options**

Under WAC 357-31-240, and 245, or the CBAs, *employees elect one* of the following options:

- They can choose to receive time loss payments exclusively.
- They can choose to receive leave payments exclusively (excluding Shared Leave).
- They can choose a combination of time loss payments and leave payments.

25.40.40.c.(4) **An employee can elect to receive both time loss payments and pay for time taken as:**

- Vacation leave
- Compensatory time
- Exchange time
- Holidays

An employee is *entitled to both payments* for the same time period without any deductions for the time loss payments.

Note: It is the position of the Department of Personnel that buy-back of annual leave is not allowable.

25.40.40.c.(5) **Shared leave**

An employee who qualifies for time loss cannot use shared leave for the same time period. WAC 357-31-390(6) or the CBAs require an employee to have diligently pursued and been found to be ineligible for benefits under Chapter 51.32 RCW for a work related illness or injury in order to be eligible for the shared leave program for medical purposes.

Note: If an employee inadvertently receives shared leave and is subsequently approved for benefits under Chapter 51.31 RCW, the employee shall not be required to repay to the agency the value of the shared leave used.

25.40.40.c.(6) **Sick leave**

**If an employee elects to receive regular salary or sick leave for a disability period where time loss payments were also received, *the agency must recover the time loss payments.***

25.40.40.d **Time loss recovery procedures**

Upon notification by the Department of Labor & Industries (L&I) that an employee has received time loss payments, the agency is to determine if the employee received paid sick leave during the temporary disability period.

If the employee received paid sick leave for a period covered by time loss payments, the agency is to recover the dollar value of the sick leave by having the employee select one of the following:

- The employee keeps the time loss payment and has a comparable salary reduction, or
- The employee reimburses the agency for the amount of the time loss payment.

For a sample calculation worksheet, contact your agency's assigned OFM accounting consultant.

Note: The L&I daily rate is based on a calendar month basis, not on the workday basis used for payroll calculations.

25.40.40.d.(1) **The employee keeps the time loss payment but has a comparable salary reduction**

- Compute the employee's gross salary less the amount of the applicable time loss payment.
- Compute federal income tax (FIT), OASI, and Medicare taxes on the employee's reduced gross salary. Time loss payments are not subject to these taxes.
- For retirement contribution calculation and service credit, refer to Subsection 25.40.40.d.(3).
- Restore sick leave to the nearest 10th of an hour using the employee's hourly rate effective during the time loss period. Refer to Subsection 25.40.40.d.(4).

25.40.40.d.(2)

**The employee reimburses the agency for the amount of the applicable time loss payment**

- Treat the reimbursement from the employee as a recovery of current biennium salary expenditures/expenses.
- *For payment purposes*, compute the employee's gross salary without reduction for the time loss payment. However, OASI and Medicare taxes must be reduced so as not to tax the effect of the time loss payment recovered through a different reimbursement process.
- Compute federal income tax withholding on the employee's gross salary without reduction for the time loss payment. This becomes a self-adjusting item when the federal income tax return is filed by the employee.
- Compute OASI and Medicare on the employee's gross salary after reduction for the time loss payment.
- For retirement contribution calculation and service credit, refer to Subsection 25.40.40.d.(3).
- Make *year-to-date adjustments* to the following:
  - ⇒ Reduce year-to-date earnings subject to federal income tax, OASI and Medicare by the amount of the time loss payment.
  - ⇒ Adjust year-to-date OASI and Medicare taxes to reflect the OASI and Medicare adjustment made for reduction of the time loss payment.
- Restore sick leave to the nearest 10<sup>th</sup> of an hour using the employee's hourly rate effective during the time loss period. Refer to Subsection 25.40.40.d.(4).

25.40.40.d.(3)

**Per the Department of Retirement Systems (DRS), calculate retirement contributions based on the following 3 situations:**

- Employee elects to have full service credit for the duration of the claim or up to two year limit and the **agency has an agreement with the employee**. The agency must choose to assume liability for full employee and employer contributions. **Calculate retirement on the regular compensation the member would have received if the disability had not occurred.** Report to DRS: Contributions reported

on the transmittal must be based on the *regular compensation*. The employee contribution is deferred from Federal Income Tax (FIT).

- Employee elects to have full service credit for the duration of the claim up to the two year limit and the agency chooses not to assume liability for the employee contribution. **Calculate retirement on the gross regular compensation less repayment amount.** Refund the employee the applicable retirement contribution. Agency will complete a JV for a refund from DRS for the employee and employer contributions. Report to DRS: Reduced salary and reduced hours worked/paid for the appropriate earnings period. **At the end of the disability the employee has the option to purchase up to 24 months (PERS 1-3), 6 months (LEOFF), for WSP (contact DRS) of lost service credits due to the disability.** Upon receipt of payment for service credits by employee, DRS will invoice employer for employer contributions, plus interest. Note: The employee cannot contact DRS until after returning to work.
- Employee elects not to have full service credit for the duration of the claim. **Calculate retirement on the gross salary less repayment amount.** Refund the employee the applicable retirement contribution. Agency will complete a JV for a refund from DRS for the employee and employer contributions. Report to DRS: Reduced salary and reduced hour's worked/paid for the appropriate earnings period.

Refer to Administrative and Accounting Resources at <http://www.ofm.wa.gov/policy/resource.htm> for DRS and payroll processing information regarding the employee's options and instructions on adjustments associated with optional retirement service credit for unpaid leave.

25.40.40.d.(4)

#### Formula to calculate sick leave to be restored

$$\frac{\text{Semi-monthly Salary}}{\text{Hours Available For Pay Period When Time Loss Payment Made}} = \text{Actual Hourly Rate}$$

$$\frac{\text{Time Loss Payment Dollar Value}}{\text{Actual Hourly Rate During Payment Period}} = \text{Amount of Sick Leave}$$

Hours to be restored  
(nearest 10th of an hour)

**Example:** Time loss payment of \$400 received or refunded to the agency. The employee's semi-monthly salary was \$850 and the number of available hours in the 11 day pay period when the time loss payment was calculated was 88 (8 x 11).\*

$$(1) \quad \frac{\$850}{88} = \$9.66 \quad \text{Actual hourly rate}$$

$$(2) \quad \frac{\$400}{\$9.66} = 41.40 \quad \text{Sick Leave hours to restore}$$

\***Note:** Available hours are based on how many days are in a particular semi-monthly pay period and may vary depending on the pay period.

#### **FTE adjustment for restored sick leave hours**

When sick leave hours are restored in a sick leave recovery situation, a comparable FTE reduction is to be recorded if the sick leave is taken and recovered in the same fiscal period. The calculation for the monthly FTE adjustment, based on the example in Subsection 25.40.40.d.(3) is:

$$\frac{41.40 \text{ hours}}{174} = .24 \text{ FTEs}$$

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### **25.40.50**

October 1, 2005

### **Recognition leave**

WAC 357-31-565 authorizes employers who have received performance management confirmation to grant employees up to five (5) days of paid leave within a twelve-month period to recognize outstanding accomplishments or the achievement of pre-defined work goals by individual employees or units.

Leave granted under this provision is not payable upon layoff, dismissal, separation, or resignation or transferable between employers. Accordingly, it need not be accrued at fiscal year end.

This provision is for non-represented employees only.



## 25.50

# Payroll Deductions and Reductions

### 25.50.10

May 1, 1999

### Introduction

Payroll deductions or reductions are amounts withheld from an employee's wages. Reductions affect gross income, deductions do not. Deductions are classified as mandatory or voluntary.

### 25.50.20

May 1, 1999

### Mandatory (standard) deductions/reductions

#### 25.50.20.a

#### Mandatory Deductions from Gross Income

These must be deducted from employees' salaries and wages pursuant to federal or state law. Mandatory deductions include but are not limited to the following list:

<i>Mandatory Deductions</i>	<i>Description and Requirements</i>
<b>Federal Income Tax</b>	<ul style="list-style-type: none"> <li>Determine amount of withholding from employee signed federal W-4 form (Employee's Withholding Allowance Certificate).</li> <li>Check IRS publication 15 (Circular E) for any additional rules.</li> </ul>
<b>Industrial Insurance (Medical Aid)</b>	<ul style="list-style-type: none"> <li>State tax for industrial insurance benefits program.</li> <li>Administered by the Department of Labor and Industries (L&amp;I).</li> <li>Premium calculation = (Actual hours worked x L&amp;I rate); OR, (Standard monthly average of 160 hours x L&amp;I rate).</li> <li>Premium for part-time employees is calculated using actual hours.</li> <li>The L&amp;I rate is based on the assigned risk classification(s).</li> <li>Refer to RCW 51.12.035 and L&amp;I regarding mandatory Medical Aid coverage for volunteers of state agencies who have registered and accepted the volunteer services.</li> <li>Refer to L&amp;I publications for coverage, employee/employer rates, and employer reporting requirements.</li> </ul>

<i>Mandatory Deductions</i>	<i>Description and Requirements</i>
<b>Old Age and Survivor's Insurance (OASI) and Medicare</b>	<ul style="list-style-type: none"> <li>OASI is a federal employment tax for retirement, survivors, and disability benefits. Matching contributions are required from both employees and employers.</li> <li>The Medicare federal employment employee and employer matching tax supports federal health insurance.</li> <li>Employment Security (ESD) administers our state's Section 218 agreement with the federal Social Security Administration.</li> <li>Check with ESD for coverage requirements.</li> <li>Refer to IRS Publication 15 (Circular E) for rates, deposit, and reporting regulations.</li> </ul>

25.50.20.b

**Mandatory Reductions to Gross Income**

These reduce gross pay and are not subject to federal income tax. Deduct these amounts from gross income before calculating federal income tax for eligible employees.

<i>Reductions to Gross Income</i>	<i>Descriptions and Requirements</i>
<b>State Retirement Systems</b>	<ul style="list-style-type: none"> <li>This is the employee's paid share of the total retirement contribution.</li> </ul>
<b>Teachers Insurance and Annuity Association and College Retirement Equities Fund</b>	<ul style="list-style-type: none"> <li>This is the employee's paid share of the TIAA/CREF plan. Refer to RCW 28B.10.400 and rules developed by specific institutions for reporting requirements.</li> </ul>

**25.50.30**

June 1, 2006

**Voluntary deductions/reductions**

These options are permitted by law but require an employee's written request to authorize the payroll deduction or salary reduction. Generally, agency heads have the discretion to approve or deny requests for these types of deductions. The maximum deductions or reductions per employee are limited to the number that payroll systems can accommodate.

25.50.30.a

**Voluntary Reductions from Gross Income**

These amounts reduce gross pay and are not subject to income tax. Deduct these amounts from gross income before calculating federal income tax. Participation in this type of reduction is at the employee's written request.



<i>Voluntary Reductions</i>	<i>Descriptions and Requirements</i>
<b>Deferred Compensation Plans and Tax Deferred Annuities</b>	<ul style="list-style-type: none"> <li>These are salary reductions allowed under RCW 28B.10.480 and 41.04.020.</li> <li>Either the agency head or the Department of Retirement Systems Deferred Compensation Program approves the employee's request for this type of deduction.</li> </ul>
<b>Dependent Care</b>	<ul style="list-style-type: none"> <li>This program allows eligible employees to exclude dependent care costs (like child care) from their gross income. Reductions are not subject to OASI and Medicare.</li> <li>Eligibility requirements are in RCW 41.04.600-645.</li> <li>The Department of Retirement Systems Deferred Compensation Program administers this program.</li> </ul>
<b>Flexible Spending Plan</b>	<ul style="list-style-type: none"> <li>A medical flexible spending account allows employees to set aside pretax earnings to pay eligible medical expenses.</li> <li>Annual minimum contribution is \$240.00, annual maximum contribution is \$2,400.00.</li> </ul>
<b>Medical Expense Plans (Voluntary Employee Benefit Associations - VEBAs)</b>	<ul style="list-style-type: none"> <li>RCW 41.04.340 allows eligible retiring employees an option to use their accrued sick leave buyout at retirement to purchase a post-retirement medical expense reimbursement plan.</li> <li>Also refer to WAC 357-31-375 or CBAs for program requirements.</li> </ul>

25.50.30.b

### **Voluntary Miscellaneous Deductions**

These deductions reduce net pay, but do not affect gross income. Participation in these types of deductions is at the employee's written request. These deductions may also require a minimum level of participation. The most common of these deductions follow:

<b>Type of Deduction</b>	<b>Description and Explanation</b>	<b>25/100 rule *</b>	<b>Agency Override on 25/100 Rule</b>	<b>Agency approval required</b>
<b>Banks, Savings Banks, or Saving and Loan Associations</b>	<ul style="list-style-type: none"> <li>These institutions must be authorized to do business in this state.</li> </ul>	X	X	If < 25 in the agency X
<b>Credit Unions</b>		X	X	If < 25 in the agency X
<b>Parking Fees</b>	<ul style="list-style-type: none"> <li>Payments for parking furnished by the agency or by the Department of General Administration.</li> </ul>			
<b>US Savings Bonds</b>	<ul style="list-style-type: none"> <li>Agencies shall appoint an individual to act as trustee who: <ul style="list-style-type: none"> <li>--Receives deduction authorizations.</li> <li>--Purchases and delivers bonds.</li> <li>--Keeps records of bonds.</li> </ul> </li> </ul>			
<b>Board, Lodging, Uniform Deductions</b>	<ul style="list-style-type: none"> <li>Deductions for board, lodging, or uniforms furnished by the state.</li> </ul>			

**25**  
**Payroll**

<b>Tuition, Fees, or Scholarship Contributions</b>	<ul style="list-style-type: none"> <li>Deductions for academic tuition, fees, or scholarship contributions payable to the employing institutions.</li> </ul>			
<b>Dues and Other Fees</b>	<ul style="list-style-type: none"> <li>Membership dues for professional organizations formed primarily for public employees or college and university professors.</li> </ul>	X		
<b>Labor or Employee Organization Dues</b>	<ul style="list-style-type: none"> <li>Per RCW 41.04.230, dues authorized under a collective bargaining agreement if not already provided under the provisions of Chapters 41.76 or 41.80 RCW or other statutory authority.</li> <li>Organizations of 500 or more may have payroll deduction for employee benefit programs.</li> </ul>	X		
<b>Funds, Committees, or Subsidiary Organizations Maintained by Labor or Employee Organizations</b>	<ul style="list-style-type: none"> <li>Per RCW 41.04.230 (6), employees may voluntarily contribute.</li> <li>Effective January 1, 2007.</li> </ul>			
<b>Health Care Authority Premiums</b>	<ul style="list-style-type: none"> <li>Premiums for contracts authorized by the Washington State Health Care Authority (HCA) (Chapters 41.04 and 41.05 RCW).</li> <li>Enrollment or assignment by the HCA to participate in a health care benefit plan, as required by RCW 41.05.065(5), shall authorize a payroll deduction of premium contributions without a written consent under the terms and conditions established by the public employees' benefits board.</li> <li>Premiums are treated as pretax unless the employee elects to have the premium taxed. This election must be made during open enrollment.</li> </ul>			
<b>Charitable Contributions</b>	<ul style="list-style-type: none"> <li>Contributions to the state employee combined fund drive (RCW 41.04.036 and Chapter 240-10 WAC).</li> </ul>			
<b>Other Deductions</b>	<p><b>Per RCW 41.04.230:</b></p> <ul style="list-style-type: none"> <li>Other deductions <i>may be authorized by the director of OFM</i> for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state health care authority.</li> </ul> <p><b>Per RCW 41.04.030:</b></p> <ul style="list-style-type: none"> <li>Other Health, Accident, Disability, and Life Insurance - Deductions for employee chosen insurance carriers.</li> </ul>	X		X

\* This means minimum participation of 25 or more employees in one agency or 100 employees statewide.



## 25.60 Garnishments and Wage Assignments

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### 25.60.10

January 1, 2004

### Garnishments and levies

The term garnishment or levy is often used to describe a number of different documents. A garnishment or levy is used to capture all or a portion of earnings or personal property owed by a state agency to an employee, vendor, or third party. Personal property can include, but is not limited to, wages, leave buyout, vendor payments, commissions, bonuses, or prize money. The documents used to capture such amounts include, but are not limited to, writs of garnishment, mandatory wage assignments, mandatory payroll deductions, court orders, tax levies, and other administrative orders. Before proceeding, determine the type of legal document served upon the agency. The legal document will determine the procedure to follow.

#### 25.60.10.a

#### **Writs of garnishment – overview**

The law provides for two types of writs. The first is titled a “writ of garnishment (continuing lien on earnings).” The second is titled a “writ of garnishment (non-continuing lien)” or a “writ of garnishment (debt other than earnings—after judgment).” A continuing lien writ captures a percentage of the employee’s wages for a 60 calendar day period. The non-continuing lien writ captures any non-exempt personal property owed to the employee/vendor (defendant) on the date the writ is served on the Office of the Attorney General. The non-continuing writ is most commonly used to capture contractual payments owed to a business.

#### 25.60.10.b

#### **Writ of garnishment - continuing lien on earnings**

A writ of garnishment (continuing lien on earnings) is served to capture an employee’s earnings. Earnings include wages, salary, and other compensation. If the writ does not have the caption “continuing lien on earnings,” it captures only the assets being held by the agency on the day the writ was received by the Office of the Attorney General.

Service of a writ on the Office of the Attorney General is required pursuant to RCW 6.27.040 and RCW 4.92.020. If an agency receives a writ directly, without prior service on the Attorney General, return the writ to the creditor (plaintiff) noting that it was improperly served.

Superior court writs of garnishment are issued by the clerk of the superior court, a court commissioner, or judge. A creditor's attorney may, however, issue *district court* writs of garnishment. Although an attorney may issue the initial district court writ of garnishment, any request or demand to turn over earnings or assets held by an agency must be by service on the agency of a court document titled "Judgment and Order to Pay." Either a court commissioner or a judge must sign this document.

Proper service of the writ (continuing lien on earnings) creates a lien on the employee's earnings for 60 calendar days. It captures all non-exempt earnings payable to the employee from the date of service on the Office of the Attorney General to the last payroll period ending on or before 60 calendar days after service of the writ.

Once the writ is served on the Attorney General, by law, an agency is prohibited from paying any non-exempt earnings to the employee. If the writ is served on the Office of the Attorney General on or near the date the employee is to be paid, an agency must take reasonable steps to stop a payment to the employee and withhold the non-exempt earnings.

The amount withheld each pay period will generally be 25 percent of the employee's disposable earnings or a lesser amount as stated in the writ. The remaining 75 percent is exempt from garnishment. The agency must pay the employee only the amount exempt from garnishment.

20.60.10.c

**First Answer**

Accompanying the writ should be an "Answer to Writ of Garnishment" form. This form is often called the "First Answer." The agency must complete the First Answer form and return it to the applicable court with a copy to the creditor (plaintiff) or the creditor's attorney, as well as a copy to the employee (defendant). The creditor must provide the agency with self-addressed stamped envelopes for this purpose. The First Answer must be mailed to the court, the creditor, and the employee within 20 calendar days after receipt of the writ by the Office of the Attorney General. Failure to answer the writ timely can result in a judgment being taken against the agency for the entire amount of the writ as well as costs and attorney fees.

To complete the First Answer, the agency must answer the questions in Section I of the writ. Next, if the defendant is an employee of the agency, the agency must complete Section II related to gross earnings, deductions, disposable earnings, and exempt earnings. Use the garnishment worksheets to perform the applicable calculations. These also provide backup documentation for the actual garnishment amount. The first

worksheet deals with the “First Answer” and the second worksheet deals with the “Second Answer” to the writ. The agency may attach a work sheet showing its calculations. Refer to Subsection 25.60.50 for garnishment worksheets.

25.60.10.d

### **Calculation of exempt earnings**

To calculate exempt earnings, subtract federal withholding taxes (including any additional withholding), social security (OASI), Medicare, L&I (medical aid), and retirement, and any other amounts required by law to be withheld from gross earnings. Any amounts the employee may deduct by law, such as health insurance, are not deducted from gross earnings. After deduction of the “amounts required by law to be withheld,” the result is disposable earnings.

Seventy-five (75) percent of disposable earnings or thirty times the federal minimum hourly wage, whichever is larger, is the exempt amount. This 75 percent (or thirty times) must be paid to the employee. The remaining 25 percent is subject to the writ of garnishment (continuing lien).

If the writ of garnishment (continuing lien) is for child support, the exempt amount is 50 percent, when the employee supports a spouse or dependent child. If the employee does not support a spouse or dependent child, the exempt amount is 40 percent.

To calculate the 60-calendar day effective period and the payroll periods subject to the writ, the agency counts the day the writ was served on the AGO as well as counting another 60 calendar days, beginning the day after service of the writ. The day that the writ was served on the Attorney General to the end of the 60 calendar days is the “effective period.”

The writ captures earnings due during the effective period. The agency must first determine the pay periods affected by the writ and then calculate the percentage of non-exempt funds available to the creditor.

Note that in determining affected pay periods, the agency cannot withhold money from a pay period that ends AFTER the end of the 60 calendar day effective period. The 60-calendar day effective period must encompass the WHOLE pay period affected (i.e., effective period ends March 14, the agency CANNOT hold money from the March 1-15 payroll period). Refer to the Administrative and Accounting Resources for illustrative examples.

Generally, a writ received between the 1<sup>st</sup> and 9<sup>th</sup> of the month as well as the 16<sup>th</sup> and 24<sup>th</sup> of the month will capture five pay periods. This rule only applies if the agency's pay period coincides with the state's general pay periods of the 1<sup>st</sup> to the 15<sup>th</sup> and the 16<sup>th</sup> to the end of the month.

25.60.10.e

**Deduction codes**

Non-exempt earnings deducted on behalf of the creditor must be held in a payroll revolving or equivalent account in General Ledger code 5189 "Garnishments Payable" until a Judgment on the Answer is served on the agency. This accounting approach only requires one deduction code to deduct the non-exempt earnings and credit them to the General Ledger code 5189.

25.60.10.f

**Processing fees**

The agency may deduct a fee of up to \$20 on the First Answer and \$10 for the Second Answer for a continuing writ on earnings. The fee may be deducted from the employee's non-exempt earnings only. If the creditor's garnishment amount takes all non-exempt earnings (the entire 25 percent), no fee may be deducted. The processing fee may not be taken from an employee's exempt earnings.

For example, if the employee's disposable earnings for a 60 calendar day period are \$5,000, a creditor may garnish up to 25 percent or \$1,250. If the creditor garnishes \$1,220, the agency should deduct the processing fee of \$20/\$10. If the amount garnished is \$1,230, the agency may deduct only a \$20 fee. If the amount garnished is \$1,250 or more, no fee may be deducted.

Deposit processing fees in the operating account that supports the administrative workload used to process garnishments. Code fee receipts to General Ledger code 3210 "Cash Revenues," Revenue Source code 0499 "Other Revenue."

25.60.10.g

**Second Answer**

Near the end of the 60 calendar day period, the creditor will send the agency a document titled Second Answer. The Second Answer tells the creditor what non-exempt earnings were captured during the 60 calendar days following the date of service of the writ on the Office of the Attorney General.

The agency must complete the Second Answer and mail it to the court, creditor, and employee within 20 calendar days of its receipt by the Office of the Attorney General in the envelopes provided by the creditor. Hold all non-exempt funds captured by the writ pending receipt of a document titled Judgment on Answer and Order to Pay (also called a Judgment on Answer).

25.60.10.h

### **Judgment on Answer and Order to Pay**

A Judgment on Answer and Order to Pay is a court order that requires the agency to pay the withheld earnings over to a specified party. It further binds the employee to pay the creditor's costs. No earnings withheld from an employee should be paid to the court or a creditor absent receipt of a Judgment on Answer and Order to Pay.

A Judgment on Answer and Order to Pay must be signed by a court commissioner or a judge. Follow the directions in the Judgment when determining where to send the withheld earnings. Under a writ issued by a district court, the earnings may be sent directly to the creditor, the creditor's attorney, or the court. A superior court writ requires that the earnings be sent to the court clerk unless otherwise stated in the writ.

Carefully note the judgment amount that the agency must remit. The judgment amount must be equal or less than the amount stated in the Second Answer. If the amount in the judgment is more than the amount stated in the Second Answer, it must be returned to the creditor for re-issuance in the correct amount. If the amount in the judgment is less than the amount stated in the Second Answer, issue the warrant/check in that amount and refund the remaining earnings withheld to the employee. The agency must issue this warrant/check against the account where previously deposited in General Ledger code 5189.

If the writ is paid through other sources or the writ is dismissed, the court or the attorney will send a notice of the satisfaction, release, or dismissal of the garnishment to the agency. Rescind the accrued miscellaneous deduction "payable to the court" and return the earnings withheld to the employee. **In no event is an agency to issue the warrant/check for the earnings withheld to the employee until the agency receives a release of the writ signed by the appropriate court officer or attorney.**

25.60.10.i      **Stacking writs**

If the agency is withholding under one writ and the agency receives a second writ under a different court cause number, the second writ becomes effective upon expiration of the first writ. If the same creditor using the same court cause number as the first writ serves a second writ before the 60 calendar day period expires, refer the writ to the Attorney General. A creditor may not “stack” writs under the same court cause number. Refer to the Administrative and Accounting Resources for illustrative examples.

25.60.10.j      **Lien priority**

Lien priority is based on a number of factors. The time the document was served, the type of document, and the document’s subject matter. As a general rule, non-child support garnishments and administrative orders (educational levy, notice to withhold and deliver, IRS tax levy) compete on a first-in-time, first-in-right basis.

A child support garnishment or administrative order takes precedence over all other types of garnishments, wage assignments and administrative orders except a IRS levy served on the employer prior to receipt of the child support order. Garnishments of any nature take precedence over a non-child support voluntary wage assignment. If the agency has questions regarding the priority of competing legal documents, contact the Assistant Attorney General assigned to garnishments. Refer to the Administrative and Accounting Resources for illustrative examples.

25.60.10.k      **Writ of garnishment (non-continuing lien)**

A writ of garnishment with the caption “non-continuing lien” captures payments, monies, or other assets (collectively referred to as payments) in the possession of the agency on the date the writ was received by the Office of the Attorney General. If the agency possesses any payment due on that date to the defendant, the agency is prohibited from transferring the payment. The agency must answer the writ within 20 days of service, identifying the payment amount in the agency’s possession on the date of service.

If the payment is exempt from garnishment by state or federal law, the agency should answer the writ and cite the exemption statute. If no payments are owed to the defendant at the time the writ is received by the Office of the Attorney General, indicate in the writ that no monies were owed to the defendant on the date of service. If the agency fails to answer the writ, it can be held liable for the amount stated in the writ.



If payment is owed to the defendant, the agency must hold the payment until it receives a Judgment and Order to Pay. The agency should follow the directions in the Judgment when determining where to send the payments held.

Payments that become payable to the defendant after the date the original writ was served are not subject to the writ. A second writ must be served to capture additional payments.

Refer to the Administrative and Accounting Resources for illustrative examples.

25.60.10.l

**Failure to answer or failure to remit funds**

If the agency fails to answer the writ or remit funds after a Judgment on Answer and Order to pay is received, the agency can be held liable for the full amount claimed by the creditor as well as interest, costs, and attorney fees. The creditor (plaintiff) must give the agency 10-calendar days notice that it will request the entry of a default judgment against the agency or serve the agency with a motion to show cause. If an agency receives such notice, contact the Assistant Attorney General assigned to garnishments immediately.

25.60.10.m

**Release of writ**

If the creditor receives payment on its debt while the agency is holding withheld amounts from a garnishment, the creditor must obtain an order dismissing the garnishment signed by a court. The creditor may also provide the agency with a Release of Garnishment or Satisfaction of Judgment signed by the creditor's attorney. The release can be a partial release or full release. The agency should return amounts withheld that are released to the employee.

25.60.10.n

**Failure of creditor to release writ or obtain judgment**

If the creditor fails to serve the agency with a Release of Garnishment or Judgment and Order to Pay, the agency must hold the amounts withheld for one year after the first answer was filed with the court. After one year, contact the Assistant Attorney General assigned to garnishments to seek release of the amounts withheld.

25.60.10.o

**Direct questions to the Attorney General's Office**

Direct all questions regarding garnishment procedures in this policy to the Assistant Attorney General assigned to garnishments.

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**25.60.20**

January 1, 2004

**Child support**

25.60.20.a

**Child support debt collection overview**

Child support can be enforced through payroll deduction notices, administrative orders (notice and order to withhold and deliver child support), mandatory wage assignment orders, writs of garnishment for child support, and out-of-state child support orders or notices (collectively referred to as child support levies). Unless issued as a writ of garnishment, a deduction taken pursuant to a child support levy continues beyond the 60-day period of a writ of garnishment. A child support levy has priority over non-child support writs of garnishment, assignments, attachments, or other legal processes except an IRS levy served prior to receipt of the child support order.

25.60.20.b

**Payroll deduction notice**

The Department of Social & Health Services (DSHS) may issue a payroll deduction notice to collect child support. The notice is effective immediately upon receipt by the agency. Service of the deduction notice on the Office of the Attorney General is not required.

An agency must answer the notice within 20 calendar days after receipt using the answer form provided. The agency must begin withholding funds immediately. The payroll deduction notice can capture up to 50 percent of the employee's disposable earnings. Any earnings withheld must be remitted to DSHS within 7 working days of the date the earnings are payable.

The agency may deduct a processing fee from the employee's wages. The processing fee is \$10 for the first disbursement and \$1 thereafter. The deduction notice remains in effect until released, until the employee is no longer employed, or until the agency no longer possesses any earnings.

25.60.20.c

**Notice and order to withhold and deliver for child support**

A notice and order to withhold and deliver (order) is an administrative order to withhold earnings for child support. Similar to a payroll deduction notice, an order is effective immediately upon receipt by the agency. An agency must answer the notice within 20 calendar days after receipt using the answer form accompanying the order. The agency must begin withholding funds immediately.

The order can capture up to 50 percent of the employee's disposable earnings. Any earnings withheld must be remitted to DSHS within 7 working days of the date the earnings are payable. Upon withholding from the employee's paycheck, the agency may deduct a processing fee. The processing fee is \$10 for the first disbursement and \$1 thereafter.

The order remains in effect until released, until the employee is no longer employed, or until the agency no longer possesses any earnings.

25.60.20.d

**Mandatory child support wage assignment order**

A court of law may issue a wage assignment to collect child support. Wage assignment orders are effective immediately upon service on the agency. An answer to a child support wage assignment order must be mailed no later than 20 calendar days after the day the order was received by the agency.

Withholding under such an order may not exceed 50 percent of the employee's disposable earnings. An agency must remit any earnings withheld within *five working days* of the date such earnings are payable. A \$10 processing fee may be deducted by the agency for the first disbursement; and a \$1 fee may be deducted for each disbursement thereafter.

A wage assignment order continues until paid, released, or the agency is no longer holding any earnings. An agency must promptly notify the addressee specified in the assignment when the employee is no longer employed. Once employment is terminated, the agency must hold the wage assignment order for one year. The wage assignment order remains in effect for this one-year period. The one year period is calculated from the date of the employee's termination or the date the agency no longer possesses any earnings or other compensation, whichever is longer. The wage assignment order does not expire until one year has passed. If the former employee returns to service within the one-year period, the agency must immediately begin to withhold earnings as provided in the prior wage assignment order.

25.60.20.e

**Writ of garnishment for child support**

Private parties may garnish wages for child support using a writ of garnishment under RCW 6.27. If the garnishment is a continuing lien on wages, it is only effective for a period of 60 days from the date of service. Withholding under a garnishment cannot exceed 50 percent of disposable wages if the employee is supporting a spouse or dependent child. Otherwise, the creditor may garnish up to 60 percent of the employee's disposable earnings.

25.60.20.f

**Out-of-state child support orders or notices**

An agency must withhold earnings when it receives a document from an out-of-state entity requiring the withholding wages for child support. It may be served directly upon the agency and begins the day received. Follow the procedures provided in the notice. Contact DSHS, Division of Child Support, for assistance in processing out-of-state child support orders.

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**25.60.30**

January 1, 2004

**Wage assignments**

25.60.30.a

**Wage assignments overview**

There are generally two types of wage assignments – voluntary wage assignments and mandatory wage assignments. A voluntary wage assignment is an employee's written consent to transfer future wages to a third party (assignee). Wage assignments are generally only for a part of the employee's wages. A mandatory wage assignment is a similar transfer of earnings required by law or court order. The amount deducted under the wage assignment can exceed the 25 percent limit of a writ of garnishment.

25.60.30.b

**Voluntary wage assignment**

Agencies may accept or decline to honor a voluntary wage assignment. However, honoring a voluntary wage assignment may forestall a garnishment, which results in significantly more work for an agency. An agency accepting a wage assignment should notify the employee and the assignee that the agency's acceptance is conditioned on (1) the agency not being liable for mistakes or omissions in honoring the assignment and (2) that enforced wage collections (e.g., garnishments) will take precedence over the assignment.

Before honoring such an assignment, the agency should obtain a copy of the assignment signed by the employee. If the employee is married, written consent to the assignment by the employee's spouse is also necessary for non-child support debts.

25.60.30.c      **Mandatory wage assignments**

A mandatory wage assignment most often requires the transfer of earnings based upon a court order or agency directive. The legislature provided for the mandatory assignment of wages for child support, criminal financial obligations and public assistance overpayments. A mandatory wage assignment should be processed in accordance with the terms of the assignment or court order. Continue to withhold earnings until the debt is paid in full unless the assignment states otherwise.

25.60.30.d      **Priority of wage assignments**

A mandatory wage assignment, garnishment, or other legally established involuntary debt collection mechanism ordinarily takes precedence over a voluntary wage assignment. An agency should consult with its assigned Assistant Attorney General to resolve questions that may arise concerning these wage transfers.

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**25.60.40**  
January 1, 2004

**Other debt collection procedures**

25.60.40.a      **Bankruptcy**

When notified of a bankruptcy filing by an employee, the agency should request that the employee provide written confirmation of the bankruptcy filing. This could include a letter from the employee's attorney with the bankruptcy court case number, a copy of the first page of the bankruptcy petition, or a copy of a bankruptcy filing receipt with the court's case number.

Once the agency has confirmation of the bankruptcy, the agency must stop deducting earnings under non-child support garnishment, administrative order, and/or wage assignment. However, child support withholding should continue unless instructed otherwise by the court.

If the agency withheld earnings *after* the bankruptcy was filed, return the post-bankruptcy earnings to the employee. As to earnings withheld *before* the bankruptcy was filed, send a letter to the creditor seeking guidance on distribution of any withheld earnings. If the creditor objects to distribution

of the funds to the employee, hold the funds for one year. If the agency does not receive a Judgment on the Answer within one year of the Second Answer, contact the Assistant Attorney General assigned to garnishments for advice.

If the employee files a Chapter 13 bankruptcy, the Chapter 13 Trustee will forward a court order requiring the withholding of earnings. The agency must withhold and forward the earnings as indicated in the Order. Withholding under such an order can exceed 25 percent of disposable earnings. The Chapter 13 Trustee Office can answer any general questions regarding the bankruptcy order. Direct legal questions to the Assistant Attorney General assigned to garnishments.

## 25.60.40.b

**Tax collection**

The IRS and state taxing agencies use tax levies to capture the earnings of an employee. The IRS uses a “Notice of Tax Levy.” The Departments of Revenue, Labor & Industries, and Employment Security use a Notice and Order to Withhold and Deliver (NOWD). Tax levies may be served directly on an agency. Unless provided in the tax levy or NOWD, no processing fee may be collected.

Begin immediately withholding earnings in accordance with the tax levy or NOWD. An IRS tax levy and an NOWD are not subject to the 25 percent limit on withholding provided for writs of garnishment. A tax levy and NOWD are also continuing liens on earnings. Withholding should continue until paid in full, released, or earnings are no longer available to garnish. Check with the revenue agent of the applicable taxing authority if questions arise.

If competing tax levies/NOWD’s are served upon the agency and issues of lien priority arise, contact the Assistant Attorney General assigned to garnishments.

## 25.60.40.c

**Educational loans**

Federal law allows for the collection of federally guaranteed student loans through an administrative order. An agency must honor the withholding order as if issued by a court of this State.

The administrative order may be served directly on an agency by mail. It captures earnings payable after the date it is received by the agency. The amount withheld, however, is subject to limits set by federal law. An agency may withhold only 10 percent of an employee’s disposable wages.

An employee may, however, consent to a greater withholding amount by providing written consent to the Department of Justice. The withholding order will instruct the agency on the amount to be withheld. No processing fee may be deducted.

Disposable wages are calculated in the same manner as a writ of garnishment. Deductions from disposable wages continue until the amount is paid in full (including all interest), released in writing, or the agency no longer holds any earnings payable to the individual. Amounts withheld must be forwarded to the student loan agency no less frequently than once a month. Amounts forwarded should identify the employee, the employee's social security number, and any student loan number.

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**25.60.50**  
January 1, 2004

### **Worksheets for answers to writs of garnishment**

Following are worksheets for the Calculations for First Answer to Writ of Garnishment, Continuing Lien, and Calculations for Second Answer to Writ of Garnishment, Continuing Lien.

Excel calculation worksheets for determining disposable income subject to garnishment, instructions for using the excel worksheets, and a sample First Answer worksheet are available on the Administrative & Accounting Resources at <http://www.ofm.wa.gov/resources/default.asp>.

Plaintiff: \_\_\_\_\_  
Defendant: \_\_\_\_\_  
Garnishee: \_\_\_\_\_  
Total Amount of Garnishment: \$ \_\_\_\_\_  
Date Served: \_\_\_\_\_ Effective Period: \_\_\_\_\_  
(effective date of writ) (skip date served; then count 60 days)

	1 <sup>st</sup> Answer	Subject to 2 <sup>nd</sup> Answer			
PAYROLL PERIOD (dates) (not paydays)					
GROSS PAY FOR PERIOD:	\$	\$	\$	\$	\$
DEDUCTIONS:	\$	\$	\$	\$	\$
Withholding	\$	\$	\$	\$	\$
OASI	\$	\$	\$	\$	\$
Medicare	\$	\$	\$	\$	\$
Retirement	\$	\$	\$	\$	\$
Medical Aid	\$	\$	\$	\$	\$
Union Dues**	\$	\$	\$	\$	\$
MEP/VEBA***	\$	\$	\$	\$	\$
TOTAL DEDUCTIONS:	\$	\$	\$	\$	\$
DISPOSABLE EARNINGS:	\$	\$	\$	\$	\$
EXEMPT EARNINGS: \$669.50 per month or \$334.75 semi-monthly or \$154.50 per week (Fed. Min. \$5.15/hr.) OR					
75% of Disposable Earnings	\$	\$	\$	\$	\$
LARGER OF ABOVE:	\$	\$	\$	\$	\$
NOTE:	<b>If garnishment is for child support, the only exemption is either 50% or 40% of disposable earnings. Refer to Subsection 25.60.20.b of this manual for information on this percentage determination.</b>				
	\$	\$	\$	\$	\$
	Subject to 2 <sup>nd</sup> Answer				
AMOUNT SUBJECT TO GARNISHMENT(disposable earnings less exempt earnings)	\$	*	\$	\$	\$

\*\*\*Medical Expense Plan - Sick leave buyout NOT garnishable if being paid to a Voluntary Employees' Beneficiary Association (VEBA) plan. Amount is garnishable if being paid to the employee.



Plaintiff: \_\_\_\_\_  
Defendant: \_\_\_\_\_  
Garnishee: \_\_\_\_\_  
Total Amount of Garnishment: \$ \_\_\_\_\_  
Date Served: \_\_\_\_\_ Effective Period: \_\_\_\_\_  
(effective date of writ) (skip date served; then count 60 days)

	1st Answer	Subject to 2 <sup>nd</sup> Answer			
PAYROLL PERIOD (dates) (not paydays)					
GROSS PAY FOR PERIOD:	\$	\$	\$	\$	\$
DEDUCTIONS:	\$	\$	\$	\$	\$
Withholding	\$	\$	\$	\$	\$
OASI	\$	\$	\$	\$	\$
Medicare	\$	\$	\$	\$	\$
Retirement	\$	\$	\$	\$	\$
Medical Aid	\$	\$	\$	\$	\$
Union Dues**	\$	\$	\$	\$	\$
MEP/VEBA***	\$	\$	\$	\$	\$
TOTAL DEDUCTIONS:	\$	\$	\$	\$	\$
DISPOSABLE EARNINGS:	\$	\$	\$	\$	\$
EXEMPT EARNINGS: \$669.50 per month or \$334.75 semi-monthly or \$154.50 per week (Fed. min. \$5.15/hr.) OR					
75% of Disposable Earnings	\$	\$	\$	\$	\$
LARGER OF ABOVE:	\$	\$	\$	\$	\$
NOTE: If garnishment is for child support, the only exemption is either 50% or 40% of disposable earnings. Refer to Subsection 25.60.20.b of this manual for information on this percentage determination.					
	\$	\$	\$	\$	\$
		Subject to 2nd Answer			
AMOUNT SUBJECT TO GARNISHMENT (disposable earnings less exempt earnings)	\$	*	\$	\$	\$

\*\*\*Medical Expense Plan - Sick leave buyout NOT garnishable if being paid to a Voluntary Employees' Beneficiary Association (VEBA) plan. Amount is garnishable if being paid to the employee.



## 25.70

### Payment Methods

#### 25.70.10

May 1, 1999

#### Employee payment options

There are two ways to pay employees: by warrant (check), or, by direct deposit into an employee's account. Direct deposit requires written authorization by the employee.

#### 25.70.20

October 1, 2005

#### Direct deposit of employee's earnings

##### 25.70.20.a

##### Employee requirements for direct deposit by Electronic Funds Transfer (EFT)

- The employee is paid through a payroll system participating in an approved program.
- The employee is paid on a regularly scheduled payroll.
- An employee signed authorization for direct deposit by EFT is on file at the agency. Refer to Administrative and Accounting Resources at <http://www.ofm.wa.gov/resources/payroll.asp> for a sample EFT authorization form.
- The employee has an account in either a bank or credit union that has the ability to accept transfers of funds via electronic and other technological means.

##### 25.70.20.b

##### Agency requirements for direct deposit of employee's net pay by EFT

Agencies are to establish procedures that incorporate internal controls to safeguard funds against loss.

An agency's internal controls are to include a positive system of validating the amounts transferred and verifying that the amounts to be transferred to an employee are actually due for work performed or benefits due.

25.70.20.c      **Payroll system requirements for direct deposit of employee's net pay by EFT**

Payroll systems must develop standard procedures that apply to agencies participating in the system.

OFM must approve the use of electronic and other technological means to transfer funds prior to implementation. (Refer to Chapter 40.)

Standard procedures require that the employee receive a "Notice of Deposit" that contains the following information:

- The name of the bank or credit union receiving the deposit of net pay.
- The employee's name.
- The amount of the deposit.

25.70.20.d      **Requirements for financial institutions used in direct deposit programs by EFT**

The bank or credit union is responsible for adherence to federal and state statutes and regulations related to the transfer of funds via electronic and other technological means.

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**25.70.30**  
January 1, 2007

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**Amounts due to deceased employees**

When an employee dies, promptly record the amount owed to the employee in GL Code 5145 "Due to Deceased Employees' Estate." Refer to Subsection 85.34.30 for accounting procedures related to amounts due to deceased employees

The term "amount owed to the deceased" means amounts owed for labor or services performed by the deceased and/or expense reimbursements or allowances.

25.70.30.a      **Cases in which the court has appointed a personal representative**

If the deceased employee's estate is in probate (a court action has been filed to distribute the deceased's estate), and the court has appointed a personal representative, then the entire amount owing to the deceased employee is to be paid to the personal representative. (Personal

representatives may also be referred to as executors or administrators.) The agency is to require a copy of the court order appointing the personal representative before paying the amount due the deceased employee. Generally, orders appointing personal representatives will come from the state superior court. If a tribal court is involved in an inheritance case and an agency is presented with a tribal court order, contact your agency's OFM Accounting Consultant.

## 25.70.30.b

**Cases in which no personal representative has been appointed**

If no personal representative has been appointed by a court on behalf of the deceased's estate, then certain relatives can claim the amount due the deceased employee. The agency must require proof of the claimant's relationship to the deceased employee before distributing any of the amounts owed the deceased to the claimant. This proof is accomplished when the claimant completes the Claim for Indebtedness of the State of Washington to Deceased Employee. Using the declaration form is easiest for most claimants, particularly those residing out of state, because it does not require the document to be signed in front of a notary public.

The specific relatives who can file a claim for indebtedness are set forth in RCW 49.48.120. They are as follows in the order of priority: the surviving spouse of the deceased (does not apply to same sex marriage partners because Washington does not recognize same sex marriages); if there is no surviving spouse of the deceased, then the deceased's surviving child or children; if the deceased had no surviving child or children, then the deceased's parent or parents. Refer to Subsection 25.70.30.d for instructions involving surviving spouses who have a community property agreement. If none of these relatives survives the deceased, then the state can release the amount owed the deceased only to the personal representative of the deceased's estate unless the provisions of Subsection 25.70.30.e apply.

If the deceased has multiple surviving children, then the agency can pay only the representative portion of the amount owed the deceased to a child, absent an agreement signed by all of the deceased's children that the child signing the Claim Form may accept the amount owed the deceased on behalf of all the deceased's surviving children. For example, if the deceased has three surviving children, and only one child filed a claim form, the agency could pay that child only one-third of the total amount the agency owed the deceased, subject to the dollar restrictions in Subsection 25.70.30.c.

**NOTE:** “Child” means a biological child of the deceased employee or a child legally adopted by the deceased. The term does not include stepchildren, foster children or children over whom the deceased employee may have guardianship.

A child of the deceased employee who has been declared emancipated under Chapter 13.64 RCW may still file the claim form for the amounts due the deceased. While children who are minors (under 18) must have a guardian or other legal representative file the claim form on their behalf, an emancipated minor is considered an adult for these purposes.

If the deceased is survived by both parents who are divorced – then each must file a claim form and the agency should pay each parent half of the total amount owed to deceased, subject to the dollar restrictions in Subsection 25.70.30.c. If the parents are still married, then either may file the claim form and the agency should pay the entire amount subject to the dollar restrictions in Subsection 25.70.30.c to that parent.

**NOTE:** Washington does not permit the creation of common law marriages – couples must obtain a license and the ceremony must be solemnized in order for the marriage to be valid. RCW 26.04.050. However, a common law marriage created in another state will be recognized as valid in Washington if the common law marriage was recognized as a valid marriage in the state where created. RCW 26.04.020(3). The following jurisdictions recognize common law marriages: Alabama; Colorado; District of Columbia; Georgia (if created before 1/1/97); Idaho (if created before 1/1/96); Iowa; Kansas; Montana; New Hampshire; Ohio (if created before 10/10/91); Oklahoma; Pennsylvania; Rhode Island; South Carolina; Texas; and Utah.

25.70.30.c

**Payments to the relatives in Subsection 25.70.30.b are limited to \$10,500 or less**

Even if the state owes the deceased more than \$10,500, the agency can only pay to the appropriate relative an amount not exceeding \$10,500, unless the provisions of Subsections 25.70.30.d or 25.70.30.e apply or a personal representative has been appointed by the court.

Starting July 1, 2005, and every biennium thereafter, the OFM director may adjust the amount of indebtedness that can be paid for a claim to a level not to exceed the percentage increase in the consumer price index for Seattle. (Refer to RCW 49.48.120).

STATE OF WASHINGTON        )  
                                      )  
\_\_\_\_\_ COUNTY        )        Warrant/Check No(s) \_\_\_\_\_  
                                      )        Fund \_\_\_\_\_

- Issued by: Office of Financial Management**

25  
Payroll

25.70.30

CLAIM FOR INDEBTEDNESS OF STATE OF WASHINGTON TO DECEASED EMPLOYEE  
RCW 49.48.120  
(DECLARATION FORM)

STATE OF WASHINGTON ) Warrant/Check No(s) \_\_\_\_\_  
 )  
\_\_\_\_\_ COUNTY ) Fund \_\_\_\_\_

1. In the matter of the amounts due to deceased employee  
\_\_\_\_\_ employed by \_\_\_\_\_  
(Print legal name of deceased employee) (Name of state agency)  
of the State of Washington at the time of his/her death.
2. \_\_\_\_\_ declares under penalty of perjury that he or she is:  
(Name of Claimant)
  - ☐ The legally married spouse of the deceased;
  - ☐ A child of the deceased (if multiple children of deceased, each child must sign a claim form to obtain proportionate share of amounts due deceased unless all children sign a separate form that states one child, on behalf of all children, can take entire portion owed the deceased); or
  - ☐ A parent of the deceased (if parents of deceased are married, only one parent need sign the claim form; if parents divorced, each must sign separate claim forms and each will receive half of what is owed to deceased).
3. No personal representative, executor or administrator of the deceased employee's estate has been appointed.
4. Check one of the following:
  - ☐ Claim is made for the amount due the deceased employee for labor, services performed and/or expense reimbursements or allowances, not exceeding the sum of \$10,500\*, or

\*Beginning July 1, 2005, an amount calculated pursuant to RCW 49.48.120(2) (increase based on the Seattle CPI)

- ☐ Claim is made for the full amount due the deceased employee for labor, services performed or expense reimbursements or allowances which claim is allowed because the deceased employee and the claimant had entered into a community property agreement (CPA) (attach copy of the agreement), the CPA was executed in good faith, was not rescinded by the parties before the deceased employee's death, and upon the death of the deceased employee, the indebtedness owing to the employee became the sole property of the surviving spouse.

\_\_\_\_\_  
Signature of Claimant Date

OFM/08'05

STATE OF WASHINGTON        )  
                                      )  
\_\_\_\_\_ COUNTY            )        Warrant/Check No(s) . \_\_\_\_\_  
                                      )        \_\_\_\_\_

- \*Beginning July 1, 2005, an amount calculated pursuant to RCW 49.48.120(2) (increase based on the Seattle CPI).

**Issued by: Office of Financial Management**



CLAIM FOR INDEBTEDNESS OF STATE OF WASHINGTON TO DECEASED EMPLOYEE  
MULTIPLE CHILDREN - continued

\_\_\_\_\_  
Signature of Claimant                      Date

Subscribed to and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Notary Public for the State  
Of Washington, residing at*  
\_\_\_\_\_.

\_\_\_\_\_  
Signature of Claimant                      Date

Subscribed to and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Notary Public for the State  
Of Washington, residing at*  
\_\_\_\_\_.

*Note: Additional  
signature lines may  
be added as needed.*

STATE OF WASHINGTON ) Warrant/Check No(s) \_\_\_\_\_  
 ) \_\_\_\_\_  
\_\_\_\_\_ COUNTY ) Fund \_\_\_\_\_

- \*Beginning July 1, 2005, an amount calculated pursuant to RCW 49.48.120(2) (increase based on the Seattle CPI).

Signature of Claimant	Date
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**Issued by: Office of Financial Management**

25.70.30.d

**Cases involving a community property agreement (CPA)**

If the deceased and his or her surviving spouse executed a community property agreement (CPA) and the agreement meets the requirements of RCW 26.16.120, then the right to the amount owed the deceased becomes the property of the surviving spouse as follows:

1. The agency that employed the deceased must pay the surviving spouse either the total of the amount the state owes the deceased or that portion governed by the CPA.
2. RCW 49.48.120 requires the surviving spouse to present a copy of the CPA along with a properly completed Claim Form (using either the affidavit or declaration form) when claiming the amount owed to the deceased. This claim form must state that the CPA was executed in good faith between the parties and had not been rescinded prior to the death of the deceased.

**NOTE:** The fact that Washington is a community property state is not sufficient. The parties must have a CPA to qualify for the above payment. The only persons who can enter into a CPA are married persons (RCW 26.16.120).

Persons of the same sex who have married in a state allowing same sex marriages cannot enter into a CPA in Washington because Washington does not recognize same sex marriages as valid (RCW 26.04.020).

25.70.30.e

**Cases in which the estate consists only of personal property and are handled through the affidavit method pursuant to chapter 11.62 RCW**

The agency may also pay the amount owed the deceased if the claimant as a successor to the deceased presents an affidavit as provided for in RCW 11.62.010 and RCW 11.62.020.

The agency must pay the successor/claimant the total amount owed the deceased if the claimant presents a copy of the deceased's death certificate **and** an affidavit containing **all** of the following information:

- The name and address of the successor/claimant and why he or she thinks he or she is a successor to the deceased (generally a successor is a surviving spouse, someone named in the decedent's will, DSHS, or the state in cases of escheat);

- That deceased was a resident of Washington at the time of his death;
- That the value of deceased's property (NOT including the surviving spouse's community property interest) is not more than \$100,000 and includes only personal property;
- That 40 days have elapsed since deceased's death;
- That no application or petition for the appointment of a personal representative is pending or has been granted;
- That all debts of the deceased including funeral and burial expenses have been paid or provided for;
- A description of the personal property claimed (here it would be the amount owed to the deceased) together with a statement that such personal property is subject to probate;
- That claimant/successor has notified all other successors of the deceased of his or her claim to the amount owed the deceased and that 10 days has elapsed since the notice was either personally given or mailed to other successors; and
- That claiming successor is personally entitled to full payment of the amount owed to the deceased or is entitled to full payment on behalf of and with the written authority of all other successors who have an interest in the amount owed to the deceased.

25.70.30.f

**Missing employees that are presumed dead**

If it has come to the attention of an agency that an employee to whom amounts are owed is missing, and one of the persons listed in RCW 49.48.120 (spouse, children, parent) is attempting to claim the amounts due the employee, the agency cannot pay those amounts until it has a certified copy of a certificate of presumed death. Under RCW 70.58.390, a county coroner, medical examiner or prosecuting attorney may issue a certificate of presumed death under certain circumstances.

25.70.30.g

**Upon receipt of the documentation required in a, b, d or e above, a copy of the deceased employee's certified death certificate, or certificate of presumed death as required in f above, and an Internal Revenue Service Form W-9 "Request for Taxpayer Identification Number and Certification," the agency shall process the transaction.**

1. The agency shall process a warrant or check and release it to the appropriate claimant or successor who signed the claim form and presented the required documentation.
2. The agency shall make the warrant or check payable to the deceased employee. Include the following prescribed endorsement on the warrant or check:

**"Pay to the order of (insert name of claimant relative or successor appearing on the supporting documentation) for (name of agency head, title of agency head) by (signature of agency head or authorized designee, and title)."**

25.70.30.h

**Claimant must acknowledge payment receipt**

In all instances, the supporting documentation is to be retained by the agency as evidence for release of the warrant or check. In addition, agencies are to require claimants to acknowledge receipt of payment in writing. A sample receipt form can be found at <http://www.ofm.wa.gov/resources/payroll.asp>

25.70.30.i

**Federal employment taxes withholding and reporting requirements**

The rules for withholding federal income, OASI, and Medicare employment taxes and reporting wages (including accumulated leave) paid after death depend on date of death, the type of compensation, and the payment date. Refer to the current Internal Revenue Service (IRS) Publications 15 and 15-A, as well as other regulations for withholding and Form W-2 reporting requirements regarding deceased employees' wages.

Also note, there are IRS Form 1099-MISC reporting requirements for payments to claimant estates or beneficiaries. Refer to the current IRS Publication Instructions for Forms 1099 at <http://www.irs.ustreas.gov/pub/irs-pdf/i1099misc.pdf>.

25.70.30.j

**Further guidance is available**

Refer to Administrative and Accounting Resources at <http://www.ofm.wa.gov/resources/payroll.asp> for guidelines on procedures on how to file claims of indebtedness of State of Washington to deceased employees. These procedures also provide a sample receipt of payment form to be signed by the claimant.



## 25.80

### Salary overpayment recoveries

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#### 25.80.10

January 1, 2004

#### Definitions

**Overpayment**, as used in RCW 49.48.210, means a payment of wages for a pay period that is greater than the amount earned for a pay period.

**Involuntary wage deduction** means a wage deduction the agency imposes through the procedures detailed in Subsection 25.80.50.

#### 25.80.20

January 1, 2004

#### Recovery methods

Debts due the state for overpayment of wages may be recovered by the agency in several ways:

- 1) The employee can agree to pay back the overpayment through a voluntary wage deduction (or, by cash or personal check);
- 2) The agency can assign the debt to a collection agency;
- 3) The agency can engage in an involuntary wage action; or
- 4) The agency can bring an action against the employee in court.

#### 25.80.30

October 1, 2005

#### Preliminary overpayment procedures

When an agency determines that an employee covered by a collective bargaining agreement has been overpaid wages, the agency is to provide written notice to the employee. The notice should include the amount of the overpayment, the basis for the claim, and the rights of the employee under the collective bargaining agreement. Refer to the Administrative and Accounting Resources at

<http://www.ofm.wa.gov/resources/payroll.asp> for a sample notice. Any dispute relating to the occurrence or amount of the overpayment shall be resolved using the procedures in the collective bargaining agreement.

When the agency believes that a wage overpayment has occurred involving an employee not covered by a collective bargaining agreement, it should collect information and have a preliminary discussion with the employee about the overpayment. During this preliminary discussion, the agency

should inform the employee about the availability of the administrative hearing process should the agency and employee be unable to agree that an overpayment has occurred. If the agency and employee agree that an overpayment has occurred, the agency should attempt to reach agreement with the employee as to the amount of the overpayment, and how the employee will pay it back.

An agency and employee may agree to terms that are acceptable to both parties. If the employee agrees to reimburse the agency by payroll deduction, a signed written authorization must be obtained before commencing deductions from the employee's payroll. Or, an ex-employee and agency could agree that the ex-employee will reimburse the state for the overpayment by making a specific number of payments over a certain amount of time. Any repayment agreement should be memorialized in writing and signed by both parties with a copy provided to each.

If the agency and employee fail to come to an agreement or the employee begins a repayment process but does not complete it, the agency may then use a collection agency or involuntary wage deduction following the due process requirements in Subsections 25.80.40 or 25.80.50.

At this point, it is important that the agency consider the overpayment amount and estimated costs to obtain a recovery for each remedy option available. If the agency has any questions concerning legal rights and responsibilities, the questions should be directed to the agency's assigned Assistant Attorney General.

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**25.80.40**  
July 1, 2004

**Use of collection agencies to recoup a wage overpayment**

RCW 19.16.500 allows state agencies to contract with licensed collection agencies to collect a public debt on behalf of the state. However, no wage overpayment recovery can be assigned to a collection agency except under the following circumstances:

- The agency was not successful in obtaining an agreement for the recovery of an overpayment during the preliminary actions described in Subsection 25.80.30 and the employee has failed to ask for additional review of the agency's decision.

- The agency has followed the due process procedures listed below:
  - The agency has attempted to notify the employee that a debt is owed. The best method by which an agency can do this is to personally hand the employee a letter detailing the overpayment that has occurred.
  - The agency has notified the employee that the debt may be turned over to a collection agency for collection if the debt is not paid and no request for review or administrative hearing is made by the employee. This statement should probably be included in a letter that the agency gives the employee.
  - Thirty (30) days have elapsed since the employee was notified of the debt or decision, whichever is later.

If the overpayment involves an employee covered by a collective bargaining agreement, the procedures in the collective bargaining agreement should be followed. Refer to Subsection 85.54.50.d regarding use of collection agencies.

---

**25.80.50**

October 1, 2005

**Overpayment recoveries – involuntary deduction process**

This process should only be utilized when the agency has not been successful in obtaining recovery of an overpayment during the preliminary actions described in Subsection 25.80.30. If the employee involved is covered by a collective bargaining agreement, this process should be utilized only if provided for in the collective bargaining agreement.

When an agency determines that an employee has been overpaid wages or salary, the agency must provide the employee with written notice that the overpayment occurred, the amount of the overpayment, and that the employee has twenty calendar days from the date he or she received the notice within which to repay the overpayment. Refer to the Administrative and Accounting Resources at

<http://www.ofm.wa.gov/resources/payroll.asp> for a sample notice.

**25.80.50.a**

The notice can be served upon the employee in the manner in which a summons in a civil case is served (the notice is hand delivered to the employee) or it can be mailed to the employee by certified mail, return receipt requested, to his or her last known address.



Because the twenty calendar day time period does not start running until the employee “receives” the notice, even if the agency mails the notice, it is in the best interest of the agency to also hand deliver the notice to the employee. This would preclude the employee from not “receiving” the notice by not accepting delivery by mail. If the agency hands the notice to the employee, it should complete the Certificate of Service form and maintain it in the employee’s file. If the matter goes to an adjudicative hearing (see later), the Certificate will be needed to prove the employee received proper notice.

- 25.80.50.b Within the twenty calendar day period following receipt of the notice, the employee may request that the agency review its finding that an overpayment has occurred. The employee can do this in person or through the submission of written documentation.

If the employee does not make the review request within the twenty calendar day period, the agency may begin to recoup the overpayment through involuntary deductions from the employee’s wages. Refer to Subsection 25.80.50.f for restrictions on amounts to be deducted.

- 25.80.50.c When the agency receives an employee’s request for a review within the twenty calendar day period, it shall review the overpayment assessment as well as the reasons for the employee’s challenge to the overpayment. Once the agency has completed its review, it shall notify the employee in writing of the agency’s decision. There is no time limit on the agency’s review of the request, but the longer it takes the agency to conduct the review, the longer it will be before the issue is resolved. The review decision must be sent to the employee by certified mail, return receipt requested. The agency should also personally hand the review decision to the employee. Refer to the Administrative and Accounting Resources at <http://www.ofm.wa.gov/resources/payroll.asp> for a sample agency review decision.

- 25.80.50.d If the employee is dissatisfied with the agency’s review decision, the employee may, as described in WAC 82-04, apply for an adjudicative proceeding under Chapter 34.05 RCW, the Administrative Procedures Act.

The application for the adjudicative proceeding must be served on and received by the agency within twenty-eight calendar days of the employee receiving the agency’s review decision. The employee must serve the employer by certified mail, return receipt requested. If the employee does not apply for the adjudicative proceeding within the twenty-eight day period, the agency may begin involuntary deductions to recoup the overpayment.

If the agency determines that the cost to the agency of the adjudicative hearing exceeds the overpayment amount to be recouped, it can agree with the employee to “write off” the overpayment and, in so doing, extinguish the debt.

The agency should agree to do this only if the employee agrees to dismiss his or her request for an adjudicative hearing. If the agency reaches this agreement with the employee, it cannot then refer the debt to a collection agency.

**Note:** Once the adjudicatory process has begun, the agency cannot assign the debt to a collection agency unless the employee agrees. The agency cannot terminate the adjudicatory process short of “writing off” the debt.

25.80.50.e If the employee does request an adjudicative hearing after the agency review decision, the agency must wait for the ruling of the administrative law judge before proceeding with the recoupment process through involuntary deductions.

25.80.50.f If an adjudicative hearing is conducted and the administrative law judge finds that an overpayment has occurred, the involuntary deduction shall not exceed 5% of the employee’s disposable earnings in a pay period.

The agency and employee can agree to an amount that is more or less than the 5%; however, the agency cannot involuntarily deduct more than 5% of the employee’s disposable earnings each pay period. Deductions from wages shall continue until the entire overpayment debt is retired.

**Note:** Calculate disposable earnings by using the same formula that is used to determine disposable earnings for garnishments. Refer to Subsection 25.60.50.

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## 25.80.60

January 1, 2004

## Recouping an overpayment through a lawsuit

If the agency is unable to recoup the overpayment using the other methods listed above, the agency can sue the employee to recover the overpayment. Consult the agency’s assistant attorney general if this appears to be the only option.

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**25.80.70**

January 1, 2004

**Employee transfers between state agencies**

If the employee leaves employment with one state agency to accept employment with another state agency, any wage deduction that was initiated by the first agency shall be continued in the next agency until the debt is fully repaid.

If the employee leaves the state's employ before paying back an overpayment or if the overpayment is discovered after the employee leaves the state's employ, the agency that overpaid the employee may, following the requirements of Subsection 25.80.40, turn the debt over to a collection agency.

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**25.80.80**

January 1, 2004

**Employee termination from state with balance owing**

Per RCW 49.48.200, any overpayment amount still outstanding at termination shall be deducted from the earnings of the final pay period.

If the final earnings do not permit recovery of the total amount owed, the agency may follow the requirements of Subsection 25.80.40 and turn the debt over to a collection agency.

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**25.80.90**

January 1, 2004

**Interest on past due salary overpayment receivables**

RCW 43.17.240 requires that interest of one percent per month be charged on past due receivables including receivables originating from uncollected salary overpayments. Exceptions are provided when one of the following conditions are met:

- Charging interest conflicts with the provisions of a contract, or with any other law.
- The debit is to be paid by other governmental units.
- The debt became due prior to July 28, 1991.
- The debt falls within one of the waiver exemption categories in WAC 82-06-010.

For purposes of determining when a salary overpayment is due, the debt is considered due when the employee is notified of the overpayment, notified of the agency review determination in accordance with RCW 49.48.210, or the determination by the administrative law judge in accordance with RCW 49.48.210, whichever event is later. Generally, an account becomes past due 30 days after its due date.

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**25.80.95**

January 1, 2004

**Agency internal control system to prevent overpayments**

All agencies are to maintain an effective system of internal controls to prevent salary and wage overpayments as much as possible.

All employees and all agency staff who affect the pay process in an agency including those who approve payroll, enter time, work with personnel actions, calculate payroll, produce payroll, or distribute payroll are responsible to assist in achieving an overall effective system of control to produce accurate timely payrolls.